

Why Aid Efficiency Will Not Deliver Development: A Feminist Legal Critique Of The
Aid Effectiveness Architecture And The Paris Declaration On Aid Effectiveness.

by

Anne Mitaru
Bachelor of Laws (LL.B.), University of Nairobi, 2002

A Thesis Submitted in Partial Fulfillment
of the Requirements for the Degree of

MASTER OF LAWS (LL.M.)

in the Faculty of Law

© Anne Mitaru, 2009
University of Victoria

All rights reserved. This thesis may not be reproduced in whole or in part, by photocopy
or other means, without the permission of the author.

Supervisory Committee

Why Aid Efficiency Will Not Deliver Development: A Feminist Legal Critique of the Aid Effectiveness Architecture and the Paris Declaration on Aid Effectiveness.

by

Anne Mitaru

Bachelor of Laws (LL.B.), University of Nairobi, 2002

Supervisory Committee

Dr. Andrew Harding (Faculty of Law)
Supervisor

Dr. Laura Parisi (Department of Women's Studies)
Co-Supervisor

Abstract

Supervisory Committee

Dr. Andrew Harding (Faculty of Law)

Supervisor

Dr. Laura Parisi (Department of Women's Studies)

Co-Supervisor

This thesis will undertake to ascertain the importance assigned to gender equality within the aid effectiveness architecture, and specifically within the Paris Declaration on Aid Effectiveness. It will seek to critically analyse the interplay of gender equality with three key components of the architecture- its parties, process and priorities. Using an international feminist legal lens, this critical analysis will seek to interrogate why the advancement of gender equality continues to remain excluded from the ongoing international development discourse, yet, it is argued that people-centered development will only be realised if it remains at the heart of international development law, policy and practice.

Table of Contents

Supervisory Committee	ii
Abstract	iii
Table of Contents	iv
Acknowledgments	v
Dedication	vi
Chapter 1 - INTRODUCTION: SETTING THE STAGE	1
Chapter 2 -PEELING BACK THE LAYERS, DEFINED AND SITUATED: DEVELOPMENT, GENDER EQUALITY AND FEMINIST LEGAL THEORY, CRITIQUE AND METHODOLOGY	14
Development	15
Gender Equality	18
Feminist Legal Theory, Critique & Methodology.	23
International Feminist Legal Theory Engaging With International Political Economy	27
Methodology	35
The “Woman Question” Methodology: Benefits and Drawbacks.	37
Chapter 3 - GENDER EQUALITY AND DEVELOPMENT: DISCOURSE ON INTERPLAY	42
Neoliberal Economics	44
<i>Homo Economicus</i> or Economic Man	46
Methodological Individualism	46
Feminist Legal Critique Of Neoliberal Economics	46
Critique of <i>Homo Economicus</i> or Economic Man	47
Critique of Methodological Individualism	48
The World Bank and Gender Equality	50
The OECD DAC and Gender Equality	53
Shortcomings of the Interplay of Gender Equality and Development: Efficiency Versus Empowerment	54
Is Gender Equality Central to Develop?	57
Is Development Necessary to Realise Gender Equality?	58
Is Gender Equality a Prerequisite of Development?	59
Chapter 4 - FEMINIST LEGAL CRITIQUE OF THE PARTIES, PROCESS AND PRIORITIES OF THE PARIS DECLARATION ON AID EFFECTIVENESS	66
The Paris Declaration on Aid Effectiveness	71
Gender Equality and the Paris Declaration on Aid Effectiveness	72
Critique of the Development Assistance Committee (DAC)	81
Internal Structure	81
Representation	83
Culture	86
Chapter 5 - CONCLUSION	96
Bibliography	102

Acknowledgments

I would like to thank my supervisors, Dr. Andrew Harding and Dr. Laura Parisi, for their invaluable contributions and dedicated supervision. I would also like to thank other Faculty of Law members including Hester Lessard, Judy Fudge and Jeremy Webber. Special thanks to Lorinda Fraser the Graduate Assistant at the Faculty of Law for the assistance she provided in so many ways.

I extend my appreciation to the Centre for Asia Pacific Studies (CAPI) International Internship Program, at the University of Victoria, for availing to me the opportunity to work at the Development Alternatives with Women for a New Era (DAWN) Secretariat, where I learnt so much more on Financing for Development and Aid Effectiveness. My sincere thanks to Gigi Francisco, the Global Coordinator of DAWN.

My profound gratitude goes to my family, friends and colleagues for their encouragement and support. Special thanks to Mike and Kathy Large, Danika Littlechild, Michelle Bain, Ilona Cairns and Kerry Sloan.

Last but not least I am especially thankful to Sam for his support, from near and from far.

Dedication

To the late Dr. Andronico O. Adede
teacher, mentor, friend.

Chapter 1 - INTRODUCTION: SETTING THE STAGE

*“All that is valuable in human society depends upon the opportunity for development
accorded the individual”*

Albert Einstein (1879 - 1955)

More than ever, our lives are shaped by the global ideas and practices of multilateral organizations. The work we engage in, the incomes we receive, the commodities we consume, the goods we manufacture, the lifestyles we pursue, and the cultural identities we don, are all partly made possible, regulated and often transformed by multilaterals such as the World Bank, the International Monetary Fund (IMF) and the World Trade Organisation (WTO).¹

Norman Long, Contesting Policy Ideas from Below

The end of the Second World War ushered in the beginning of reconstruction and development financing in Europe. At the heart of these efforts, and mandated to provide direction was the International Bank for Reconstruction and Development (IBRD), the original institution of the World Bank Group. Established at the Bretton Woods Monetary Conference held in July 1944, the mandate of the IBRD was primarily to aid with reconstruction. Shirley Boskey elaborates on its role:

...[it] was conceived of primarily as an instrument through which the physical assets of the post-war world might be rebuilt. Development financing was envisaged as an activity in which the Bank would ultimately but not immediately engage. It was the Latin American countries which were principally responsible for the emphasis on development; not being themselves in need of reconstruction, they suggested a requirement that equal amounts be expended for the two objectives, although this suggestion was modified when it was realized that it might in practice have the unintended effect of holding

¹ Norman Long, “Contesting Policy Ideas from Below” in Morten Bøås & Desmond McNeill, eds., *Global Institutions and Development: Framing the World?* (Routledge: London, 2004) 24 at 24.

development expenditure down to the level of lending for reconstruction.²

Boskey further explains that, with time, the World Bank (the Bank) was able to expand its activities into development sooner than it anticipated, as the reconstruction efforts did not take place as had earlier been envisaged.³ As countries in the Caribbean, Africa and Asia began to attain independence in the late 1950s and early to mid-1960s, under the modernisation theory paradigm, they began to receive aid that was aimed at assisting with industrialisation and growth. At its simplest, the modernisation theory held that “development was an inevitable evolutionary process of increasing societal differentiation that would ultimately produce economic, political and social institutions similar to those in the West.”⁴ By the end of the 1960s, aid flows had ceased to have the kind of effects that developing countries needed to propel their economic development strategies. As a result, and in the context of the availability of cheap money (loanable funds), many developing countries turned to the private capital markets and commercial banks for foreign capital financing in the form of loans.⁵ Aid-giving from developed countries unfortunately “reached its zenith in the mid to late 1970s and began a slow and acrimonious descent in the mid to late 1980s.”⁶ It particularly dropped with the decline and end of the Cold War.

The tenuousness of donor–partner aid relationships was compounded when it became clear that the implementation of the World Bank / IMF Structural Adjustment

² Shirley Boskey, “Bretton Woods Recalled”(1957) International Bank Notes at 2, online: World Bank Group Archives

<http://siteresources.worldbank.org/EXTARCHIVES/Resources/Bretton_Woods_Recalled.pdf>

³ *Ibid.*

⁴ Brian Tamanaha, “The Lessons of Law and Development Studies” (1995) 89 A.J.I.L. 470 at 471.

⁵ Mariama Williams, “The Paris Declaration on Aid Effectiveness: New Aid Modalities and their Implications for Gender Equality” *DAWN Informs* (November 2007) 1, footnote at 29.

⁶ Williams, *supra* note 5 at 2.

Programmes (SAPs) by developing countries in the 1980s and 1990s had adverse effects on the peoples and economies of the Global South. Bharati Sadasivam explains:

The term structural adjustment refers to the economic reform policies promoted by the Bretton Woods and other financial institutions in developing countries since the 1980s. In exchange for structural adjustment loans, recipient countries [were] expected to restructure their economies, chiefly by dismantling protectionist structures such as tariffs, controls, and subsidies for local capitalism. The basic assumptions of this reorientation [was] that an economy's health, efficiency, and productivity will improve if market forces are allowed to operate, without outcomes being influenced by government policies of protection, subsidisation, and regulation.⁷

Some of the adjustments demanded reduced government spending on essential services such as housing, education and healthcare, which had a huge impact on the poor, many of whom were women. The decision to advance loans only to the countries that met the required conditions "led to an acrimonious and distrustful relationship between donor - recipients and creditor-donors."⁸ Commentators believe that "...the impulse for aid arising from the sense of shared humanity was not in any way lessened. It was rather a loss of confidence in the aid relationship and in the conditions donors required in exchange for financial support."⁹

On June 20, 1997, the United Nations (UN) General Assembly passed Resolution A/RES/51/240 adopting the *Agenda for Development*.¹⁰ With this move, the dance dubbed "financing for development" (FfD) finally began. Set on the world stage within the UN, like other dances, it was characterised by a series of rhythmic movements and

⁷ Bharati Sadasivam, "The Impact of Structural Adjustment on Women: A Governance and Human Rights Agenda" (1997) 19 *Human Rights Quarterly* 630 at 630.

⁸ Williams, *supra* note 5 at 29.

⁹ Barry Herman, Federica Pietracci & Krishnan Sharma, "Introduction" in Barry Herman, Federica Pietracci & Krishnan Sharma, eds., *Financing for Development: Proposals from Business and Civil Society* (Tokyo: United Nations University Press, 2001) 1 at 2.

¹⁰ This is a report of an *ad hoc* open-ended working group of the United Nations General Assembly that was formed to elaborate further an action-oriented, comprehensive agenda for development.

patterns.¹¹ The agenda gave impetus to FfD and identified development as one of the main priorities of the UN:

Development is one of the main priorities of the United Nations. Development is a multidimensional undertaking to achieve a higher quality of life for all people. Economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development.¹²

The agenda further stated that “...due consideration should be given to modalities for conducting an intergovernmental dialogue on the financing of development, taking into account the recommendation by the Secretary-General”.¹³

At the turn of the century, Official Development Assistance (ODA) giving continued to be very low, and this became a matter of grave concern for governments from the Global South. The numbers had plummeted from US\$59.2 billion in 1994 to US\$53.1 billion in 2000.¹⁴ In the words of Martens, in 2001 it was “no exaggeration to say that official financing for development was in a ‘serious crisis’”.¹⁵

In September 2000, building upon a decade of major UN conferences and summits, world leaders adopted the *United Nations Millennium Declaration*,¹⁶ committing their nations to a new global partnership to reduce extreme poverty and setting out a series of time-

¹¹ *Merriam-Webster Online Dictionary*, s.v. “dance[2]” online: Merriam-Webster Online <[http://www.merriam-webster.com/dictionary/dance\[2\]](http://www.merriam-webster.com/dictionary/dance[2])>.

¹² *Agenda for Development* UN GAOR 51st Sess., Annex Agenda Item 96 (b) A/RES/51/240 (1997), 1 at 1-2, online: United Nations <<http://daccess-ods.un.org/TMP/7173517.html>>.

¹³ *Ibid.*

¹⁴ These statistics are made available by the Development Assistance Committee, Organisation for Economic Co-operation and Development (OECD DAC) through the Query Wizard for International Development Statistics (QWIDS) found online at <<http://stats.oecd.org/qwids/>>

¹⁵ Jens Martens, “Rethinking and Recommitting to Official Development Assistance” in Herman, Pietracci & Sharma, *supra* note 9, 117 at 118.

¹⁶ *United Nations Millennium Declaration*, GA Res. 55/2, UNGAOR, 55th Sess., UN Doc. A/55/L.2 (2000).

bound targets now known as the Millennium Development Goals (MDGs).¹⁷ Fulfilling the goal to halve world poverty by 2015 required that new funding commitments be made. With this, the conversations on FfD intensified and the first United Nations International Conference on Financing for Development was convened in Monterrey, Mexico. According to Tim Hall, the Monterrey Process started in the late 1990s. He notes:

... The Asian financial crisis had just struck, and later on it affected Brazil and Russia and even shook the economies of the developed world. There were pullbacks in foreign investment, especially portfolio investment. So the question developing countries had was—we're supposed to be financing our own development less through the public sector, but although private flows can be large at times they can also be volatile; they can turn off and disappear overnight; so how are we going to finance our own development? What's the strategy now? Monterrey basically emerged as a way to answer this question.¹⁸

An important concern in the lead-up to the conference went beyond addressing and reversing the decline in development financing; it was also urgently necessary to provide a space where the formation of a new framework could thaw the frosty aid development relations between donor-lender states and partner-recipient states. Wall notes:

It was a Group of 77 developing countries-led process but, almost to their surprise, the northern countries [of] Europe came on board. Also involved were the IMF and the World Bank. There had been strong disputes between the UN and Bretton Woods in the 80s and the 90s about structural adjustment, and differences on how to finance development. The UN delegates wanted these agencies to be part of this conference process....The process was initiated by the UN but it

¹⁷Online: United Nations <<http://www.un.org/millenniumgoals/bkgd.shtml>> retrieved 13 March 2009. See online: United Nations <<<http://www.un.org/millenniumgoals>> for the eight goals, their indicators and targets.

¹⁸Michael Collins, “The Monterrey Process and Beyond” (2008) 31.4 Callaloo 1302 at 1302. Interview of Tim Wall, Information Officer in the United Nations Department of Public Information Strategic Communication Division, Development Section (22 May 2008.) by Michael Collins.

was co-sponsored by the UN, the World Bank and the IMF, and the WTO also took a leading role.¹⁹

The lead-up to the Monterrey meeting was marked by pessimistic views about how the negotiations would play out, particularly in relation to alternate development options being offered by governments. For instance, Tom Niles, the president of the United States Council for International Business in New York, stated:

Certainly, if you look at the role of the United States of America, just to take one case of development assistance, I think we're down now to 0.17 per cent of our gross domestic product in overseas development assistance (ODA). Regardless of whether a Democrat or a Republican occupies the White House, I can fearlessly predict that the figure will not go up. I believe that other donor countries in Western Europe, as well as Japan, are also suffering from what we call "donor fatigue". As a result, development funds from official sources and also from the international financial institutions, which depend to a substantial degree on the developed countries for their resources, will remain limited and insufficient for the needs. So, increased exports and enhanced flows of direct foreign investment, in my view, are the two key factors if we are to achieve development in the developing countries.²⁰

Contrary to this view, however, several commitments were made for renewed government funding to meet the Millennium Development Goals, among other things. For example, both the European Union and the United States made surprise announcements during the days leading up to the Monterrey meeting, committing to make substantial increases to their development assistance programmes.²¹

The conference was held in March 2002. It was attended by representatives of world governments, the World Bank, the IMF, different United Nations Agencies, the five regional economic commissions, representatives of civil society and the private sector.

¹⁹ *Ibid.*

²⁰ Tom Niles, "Required International Initiatives in Trade Policy" in Herman, Pietracci & Sharma, *supra* note 9, 135 at 135.

²¹ Michael Collins, *supra* note 18 at 1303.

“It was neither an academic discussion, nor an occasion for broad declarations of norms as the norms that guided the FfD framework had already been agreed upon by the Governments that participated in the 1990s World Conferences...and the Millennium Assembly in 2000.”²²

The meeting had a six-part agenda, focusing on aid, trade, debt, mobilizing domestic resources, foreign investment, and international financial architecture. Participants deliberated on debt relief, financial crises, Official Development Assistance (ODA), foreign direct investment, the relationship between international trade and development, the governance of international financial institutions, and the representation and relative power enjoyed by developing countries in those institutions.

At the conclusion of the meeting, the *Monterrey Consensus of the International Conference on Financing for Development* was adopted.²³ In the Consensus, governments resolved to address the challenges of FfD (particularly in developing countries), eradicate poverty, achieve sustained economic growth, and promote sustainable development²⁴. Further, developing states made commitments to introduce sound economic policies and improve governance, while developed states reaffirmed their commitment to increase their Overseas Development Assistance (ODA) budget to 0.7% of their gross domestic product (GDP).

²² Herman, Pietracci & Sharma, in Herman, Pietracci & Sharma, *supra* note 9, 1 at 3. Various world conferences held in the 1990s included the World Summit for Children in 1990, the UN Conference on Environment and Development in 1992, the World Conference on Human Right 1993, the International Conference on Population and Development in 1994, the World Summit for Social Development in 1995, the Fourth World Conference on Women in 1995, the Second UN Conference on Human Settlements in 1996 and the World Food Summit in 1996. See UN, *The World Conferences: Developing Priorities for the 21st Century, Briefing Paper* (New York: United Nations, 1997).

²³ Report of the International Conference on Financing for Development, UNGAOR, A/CONF.198/11, Chap. 1, Res. 1, Annex (2002).

²⁴ *Ibid.* at para I.1.

Within the Consensus document, gender equality was considered essential for sustainable development.²⁵ This position was justified in the following way “...in the increasingly globalizing interdependent world economy, a holistic approach to the interconnected national, international and systemic challenges of financing for development requires sustainable, gender-sensitive, people-centered development - in all parts of the globe.”²⁶ The Monterrey conference did result in an increase in foreign aid, with the funds primarily targeted toward funding the MDGs. Benería was critical of the outcomes of the meeting for two reasons. Firstly, “[it] fell short of developing more systematic, reliable and less dependency – inducing ways of distributing the world’s resources.”²⁷ And secondly, “Monterrey illustrated the ways in which development agendas continue to be dominated by the interests of international elites and powerful countries.”²⁸ The relevance of this second critique to gender equality will become clear in the following chapters.

Benería’s concern regarding the domination of international development policy and discourse by powerful countries was well founded. Shortly after the conclusion of the Monterrey meeting, the international conversation on FfD and aid effectiveness, a sub-theme falling under the broad area of FfD, soon found a new convenor - the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD). The OECD is an organisation of 30 industrialised countries that addresses a wide array of thematic issues that are aimed at advancing its core goals,

²⁵ *Supra* note 23 at para 11.

²⁶ *Ibid.* at para 8.

²⁷ Lourdes Benería, *Gender, Development, and Globalisation: Economics as if All People Mattered* (New York: Routledge, 2003) at 166.

²⁸ *Ibid.* at 167.

which include the achievement of highest sustainable economic growth and employment in member countries, and the expansion of world trade.²⁹

The landscape of ODA has shifted in the last few years, exhibiting a steady increase in ODA. This shift has taken place in the midst of debates about the quantity and quality of aid, and the effectiveness of international institutions within a wider aid discourse. These debates, in turn, have unfolded against a larger backdrop of global political and economic changes, including the rapid expansion of the world economy and the emergence of some former aid recipients, such as China, India and Brazil, as new aid donors.³⁰

Development aid reached its highest level ever in 2008 with the total net official ODA disbursed by DAC members rising by 10.2% to US\$119.8 billion.³¹ In spite of this, the realisation of gender equality³² continues to be elusive even though numerous pledges have been made by governments at regional and international levels to finance efforts aimed at improving the livelihoods of women.³³ For example, information from a 2009 United Nations Development Fund for Women (UNIFEM) report shows that between 2002 and 2007 World Bank lending on gender as a sub-theme was less than 5% of all

²⁹For more information on the history and mission of the OECD See online: Organization for Economic Cooperation and Development
<http://www.oecd.org/pages/0,3417,en_36734052_36761863_1_1_1_1_1,00.html>.

³⁰ United Nations Non-Governmental Liaison Service, *International Development Cooperation Today: Emerging Trends and Debates* (Geneva: United Nations Non-Governmental Liaison Service, 2008) at 1.

³¹Online: Development Co-operation Directorate (DCD-DAC)
<http://www.oecd.org/document/35/0,3343,en_2649_34447_42458595_1_1_1_1,00.html>.

³² “Gender equality” is defined as the equal valuing by society of both the similarities and differences between men and women and the varying roles that men and women play. It is achieved when both women and men enjoy the same status in society, and when they have equal conditions, including access to resources and opportunities for realizing their full potential. Further discussion on gender equality is held in the following chapter.

³³ Over the past two decades, governments have made commitments and set out actions to not only realize but finance gender equality through instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and international platforms such as the Beijing Platform for Action (BPFA) and the Millennium Summit.

projects.³⁴ The rising economic gap between the Global North and Global South, and within states in the Global North and Global South, sees women continuing to suffer under the burden of poverty and continuing to be affected by gender-specific violations of their human, economic and social rights.³⁵ While the conversations on Financing for Development at Monterrey acknowledged and sought to address the importance of gender equality towards attaining people-centered development within the Monterrey Consensus,³⁶ a follow-up meeting convened in Paris by the OECD DAC on aid effectiveness did not do the same. The outcome document of the Paris High Level Meeting, *The Paris Declaration on Aid Effectiveness*, turned out to be another international document within which practitioners and policy makers failed to critically situate the advancement of women's rights as fundamental.

This recurring omission and faltering commitment to gender equality has often led me to ask "Why?" Why is gender equality and the advancement of the rights of women not the premise of *all* development discourse at an international level? Should it not be integral to development policy, law and practice? Through this thesis I hope to interrogate the extent or absence of importance, both implicit and explicit, given to gender equality during the determination of development parameters within the aid effectiveness track.

³⁴This does not mean that projects fail to incorporate gender, but rather that gender equality objectives are not indicated amongst the main thematic focus areas of these programmes. UNIFEM, *Progress of the World's Women 2008/2009: Who Answers to Women?* (New York: United Nations Development Fund for Women, 2009), online: United Nations Development Fund for Women http://www.unifem.org/progress/2008/vs_aid5.html#vstats [UNIFEM, *Progress*].

³⁵Bisi Adeleye-Fayemi, "Financing for Gender Equality and the Empowerment of Women: The Critical Role of Autonomous Women's Funds in Strengthening Women's Movements" (Paper presented to the United Nations Division for the Advancement of Women, Expert Group Meeting on Financing for Gender Equality and the Empowerment of Women, Oslo, 5th September 2007) [unpublished] UNDAW EGM/FFGE/2007/EP.12, at 3.

³⁶Article 2 of the Agenda for Development provides "The empowerment of women and their full participation on a basis of equality in all spheres of society is fundamental for development." See Agenda for Development, *supra* note 12.

In my view, this is imperative because, if we are not able to highlight the importance that should be placed on defining the parties, processes and priorities of development discourse, then we cannot answer the important question: Why does gender equality continue to remain excluded from international development policy frameworks and processes? If we cannot understand this question, then we will not be able to answer a more important question: How do we fully realise people-centered development?

The following chapters of my thesis will undertake to ascertain the importance assigned to gender equality within the aid effectiveness track and specifically the Paris Declaration on Aid Effectiveness. My thesis will seek to critically analyse the interplay of gender equality with three key components of the Declaration: its parties, processes and priorities. The aim of this analysis will be to interrogate why the advancement of gender equality continues to be excluded from the ongoing international development discourse, despite the fact that people-centered development will only be realised if gender equality remains at the heart of international development law, policy and practice.

In attempting to satisfactorily situate gender equality within development discourse, and *vice versa*, the second chapter will seek to peel back the layers of meaning assigned to the statement “gender equality is central to development” by first looking at the different interpretations that have been offered for development and gender equality. Throughout the thesis, I will make critical arguments using an international feminist legal lens as feminist engagement with international law helps us to recognise the relationships between international law and other areas of study that do not traditionally form part of it,

such as economics and development.³⁷ The latter part of the chapter will attempt to show how feminist legal theory can best engage with international political economy.³⁸

The third chapter will broadly seek to locate gender equality in the development discourse of two organisations that have been at the helm of the aid effectiveness agenda - the World Bank and the OECD. Using an international feminist legal lens, the chapter will begin with the critical examination of the theoretical framework upon which these two organisations base their development efforts. It will then examine how they have defined development, and located gender equality in their development practices. Against this backdrop I will briefly delve into understanding what different organisations mean when they state “gender equality is central to development,” before concluding with my view on the role of gender equality *vis-à-vis* development.

Using an international feminist legal lens once again, the final chapter will analyse how the DAC as the architect of the *Paris Declaration on Aid Effectiveness* failed to deal with gender equality. The aim of this interrogation will be to find out why gender equality was not a central issue for consideration within the Declaration, and further to suggest possible reasons for this. The chapter will make an effort to present an international feminist legal critique of the internal structure, representation and culture of the DAC,

³⁷ Doris Buss & Ambreena Manji, “Introduction” in Doris Buss & Ambreena Manji, eds., *International Law: Modern Feminist Approaches* (Oregon: Hart Publishing, 2005) 1 at 5.

³⁸ International political economy studies problems that arise from or are affected by the interaction of international politics, international economics, and different social systems (e.g., capitalism and socialism) and societal groups (e.g., farmers at the local level, different ethnic groups in a country, immigrants in a region such as the European Union, and the poor who exist transnationally in all countries). It explores a set of related questions (“problematiques”) that arise from issues such as international trade, international finance, relations between wealthier and poorer countries, the role of multinational corporations, and the problems of hegemony (the dominance, either physical or cultural, of one country over part or all of the world), along with the consequences of economic globalization. “Political Economy” in *Encyclopædia Britannica*. Online: Encyclopædia Britannica <<http://search.eb.com/eb/article-255578>>.

and in so doing suggest why gender equality was made a peripheral issue within the Paris Declaration. I will conclude the paper by stating that the DAC and the OECD at large, need to include women's voices in the aid effectiveness discourse for true development to be realised.

**Chapter 2 -PEELING BACK THE LAYERS, DEFINED AND
SITUATED: DEVELOPMENT, GENDER EQUALITY AND
FEMINIST LEGAL THEORY, CRITIQUE AND METHODOLOGY**

One of the defining movements of the 20th Century has been the relentless struggle for gender equality. When this struggle finally succeeds – as it must – it will mark a great milestone in human progress. And along the way it will change most of today’s premises for social, economic and political life.³⁹

United Nations Development Program, Human Development Report 1995.

Progress towards eliminating gender inequality in the future depends on finding and embracing the occasions mostly in the political and legal realm, where the global approach strengthens women’s security and welfare, and fighting the issues, mostly in the economic realm, where women are made worse off by the new global system.⁴⁰

Naierossadat Daneshvar, Globalisation and Women: Challenges and Opportunities.

The bold statement “gender equality is central to development” is a statement that has been used in varied ways by different development actors. The United Kingdom’s Department for International Development (DFID) states in their 2007 *Gender Equality Action Plan*: “...our main aim is to ensure that gender equality and women’s rights are central to development”.⁴¹ In addition, the EC/UN Partnership on Gender Equality for

³⁹ United Nations Development Program, *Human Development Report 1995: Gender and Human Development* (New York: Oxford University Press, 1995) at 1 [hereinafter UNDP 1995].

⁴⁰ Naierossadat Daneshvar, “Globalisation and Women: Challenges and Opportunities” in C. Narasimha Rao ed., *Globalisation, Justice and Development* (Serials Publications: New Delhi, 2007) 330 at 339.

⁴¹ DFID, *Gender Equality at the Heart of Development: Why the Role of Women is Crucial to Ending World Poverty* (London: DFID, 2007) at 24, online: Department for International Development - UK <<http://www.dfid.gov.uk/Documents/publications/gender-equality.pdf>>.

Development and Peace,⁴² which brings together the European Commission (EC), the United Nations Development Fund for Women (UNIFEM) and the International Training Centre of the International Labour Organization (ITC/ILO), also assert that “gender equality and women’s empowerment are central to development, peace and aid effectiveness.”⁴³

What do these statements mean? Do they all represent or signify the same thing, or can distinctions be drawn between the interpretations that are offered by the respective organisations? On the face of it, this statement is laudable – as it situates gender equality within the mainstream discussion on development. I have come to realise, however, that this statement is also loaded, layered, and laden with multiple meanings that carry varying implications for the advancement of both gender equality and development in the Global South.

DEVELOPMENT

The word “development” is a derivative of the word “develop”, and suggests the idea of enhancement or progress.⁴⁴ Murphy’s view on development is that it is a “professionalized, hierarchical, top-down process, whose centers of power lie literally

⁴² This partnership was formed to support stronger action on gender equality and women’s empowerment in national development processes and in cooperation programmes supported by the European Commission.

⁴³ European Commission/United Nations Partnership on Gender Equality for Development and Peace brochure, at 2, online: United Nations Development Fund for Women <http://www.unifem.org/attachments/products/EC_UN_PartnershipOnGenderEquality_brochure_eng.pdf>.

⁴⁴ Kevin Tan, “The Role of Public Law in a Developing Asia” (2004) Sing. J.L.S. 265 at 266.

half a world away from its clients, and are designed to give ‘the people’ what they want: longer lives, better health, more chances for their children.”⁴⁵

Development may be defined broadly or narrowly. According to Mukhopadhyay, “The most influential and pervasive understanding of development is that it is a planned process of change in which techniques, expertise and resources are brought together to achieve higher rates of economic growth.”⁴⁶ According to this limited definition, a country is considered to have “developed” if it has made some progress in areas such as poverty reduction or elimination, inequality and unemployment – such progress would thus be interpreted and understood within the context of a growing economy⁴⁷ with a firm emphasis on economic growth.

Amartya Sen defines development much more broadly, “...as a process of expanding the real freedom that people enjoy...that requires the removal of the major sources of unfreedom such as poverty and poor economic opportunities including intolerance, or over activity of repressive states.”⁴⁸ In explaining this further, he notes that “ultimately, the process of economic development has to be concerned with what people can or cannot do, e.g. whether they can live long, escape avoidable morbidity, be well nourished, be able to read and write and communicate, take part in literary and scientific

⁴⁵ Craig N. Murphy, *Global Institutions, Marginalization and Development* (London: Routledge, 2004) at 97.

⁴⁶ Maitrayee Mukhopadhyay, “Mainstreaming Gender or ‘Streaming’ Gender Away: Feminists Marooned in the Development Business” in Andrea Cornwall, Elizabeth Harrison & Ann Whitehead, eds., *Feminisms in Development: Contradictions, Contestations and Challenges* (London: Zed Books Ltd., 2007) 133 at 137. [Cornwall, Harrison & Whitehead, *Contradictions*].

⁴⁷ Tan, *supra* note 44 at 268.

⁴⁸ Amartya Sen, *Development as Freedom* (New York: Alfred A. Knopf, 1999) at 3 [Sen, *Freedom*].

pursuits, and so forth.”⁴⁹ To this he adds that “focusing on human freedoms contrasts with narrower views of development, such as identifying development with the growth of gross national product, or with the rise in personal incomes, or with industrialization, or with technological advance, or with social modernization.”⁵⁰

The definition offered by Sen has been influential in shaping this discourse, and this is reflected in the United Nations Development Programme (UNDP) *Human Development Report 2000* which defines human development as a “process of enhancing human capabilities—to expand choices and opportunities so that each person can lead a life of respect and value.”⁵¹

Development has not always been defined as a process – in fact, it has been described under international law as a “right”. The 1986 *United Nations Declaration on the Right to Development* describes the content of the right as the entitlement “to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised.”⁵² Over the years, there have been mixed views on the usefulness of constituting development as a right. Observers note, “...[I]ts proponents present it as a collective or solidarity right that responds to the phenomenon of global interdependence, while its critics argue that it is an

⁴⁹ Amartya Sen, “Development: Which Way Now?” in Charles Wilber & Kenneth Jamerson, eds., *The Political Economy of Development and Underdevelopment*, 5th ed. (Singapore: McGraw-Hill, 1992) 5 at 15 [Sen, “Which Way Now”].

⁵⁰ *Freedom*, *supra* note 48 at 3.

⁵¹ United Nations Development Program, *Human Development Report 2000: Human Rights and Human Development* (New York: Oxford University Press, 2000) at 2. [UNDP, 2000].

⁵² *United Nations Declaration on the Right to Development*, A/Res/ 41/128, UN GAOR, 41st Sess (1986) Art. 1(1).

aspiration rather than a right.”⁵³ More recently, the United Nations General Assembly defined development as the “multi-dimensional undertaking to achieve a higher quality of life for all people.”⁵⁴ It is clear from the above that the definition of what constitutes development varies greatly, and this will certainly inform how it is applied.

GENDER EQUALITY

In her paper entitled “Strategising in Equality”, Majure aptly states that “...anyone involved in the pursuit of equality has to be aware of the shades of meaning attached to this term.”⁵⁵ Unfortunately, even with the passage of time, this statement remains true. Although the pursuit of equality between the sexes - gender equality - has gone on for centuries around the world,⁵⁶ it continues to be defined in many ways. At its simplest, it was initially seen as “the alike treatment of women and men, even while granting that they are biologically different.”⁵⁷ The International Labour Organisation defines gender equality as follows:

Gender *equality*, equality between men and women, entails the concept that all human beings, both men and women, are free to develop their personal abilities and make choices without the limitations set by stereotypes, rigid gender roles and prejudices. Gender equality means that the different behaviour, aspirations and

⁵³Hilary Charlesworth, Christine Chinkin & Shelley Wright “Feminist Approaches To International Law” (1991) 85:4 A.J.I.L. 613 at 638. [Charlesworth, Chinkin & Wright, “Approaches”].

⁵⁴ Agenda for Development, *supra*, note 12 at 1-2.

⁵⁵ Diana Majury, “Strategising in Equality” in Martha Albertson Fineman & Nancy Sweet Thomadsen, eds., *At the Boundaries of Law* (London: Routledge, 1991).

⁵⁶ In the 18th Century, Mary Wollstonecraft asserted that women were not naturally inferior to men and, unfortunately, hundreds of years later, women all over the world today are still having to assert that women are not naturally inferior to men. A person landing on the planet for the first time may (rightly) ask: What is gender equality? And why is it taking hundreds of years to realise? These are both valid questions. This is discussed further in Mary Wollstonecraft’s book *Vindication of the Rights of Women* (1792) (New York: WW Norton 1967).

⁵⁷ Judith Lorber, *Gender Inequality: Feminist Theories and Politics*, 3d ed. (Los Angeles: Roxbury Publishing, 2005) at 23.

needs of women and men are considered, valued and favoured equally. It does not mean that women and men have to become the same, but that their rights, responsibilities and opportunities will not depend on whether they are born male or female.⁵⁸

A concept that is often used alongside gender equality is the term “gender equity”, which is defined as the fair treatment of both women and men, taking into consideration their specific needs. This may require affording either equal treatment, or different but equivalent treatment on the basis of rights, benefits, obligations and opportunities.⁵⁹ For the purposes of my thesis, I will concentrate only on gender equality and its realisation.

Over the centuries, women have been treated and regarded as the inferior sex, in “...a system of social structures and practices in which men dominate, oppress, and exploit women.”⁶⁰ In speaking, therefore, of gender inequality, it is usually women who are disadvantaged relative to similarly situated men.⁶¹ Janet Momsen aptly illustrates the conditions of equality when she notes:

It does not necessarily mean equal numbers of men and women or girls and boys in all activities, nor does it mean treating them in the same way. It means equality of opportunity and a society in which women and men are able to lead equally fulfilling lives. The aim of gender equality recognizes that men and women often have different needs and priorities, face different constraints and have different aspirations.⁶²

⁵⁸ International Labour Organization, *ABC of Women Worker's Rights and Gender Equality*, (Geneva: International Labour Organization, 2000) at p.48.

⁵⁹ *Ibid.*

⁶⁰ Sylvia Walby, “The ‘Declining Significance’ or the ‘Changing Forms’ of Patriarchy?” in Valentine M. Moghadam, ed., *Patriarchy and Economic Development: Women’s Positions at the End of the Twentieth Century* (Oxford: Clarendon Press, 1996) at 21. See also M. Patricia Connelly *et al.*, “Feminism and Development: Theoretical Perspectives” in Jane L. Parpart, M. Patricia Connelly & V. Eudine Barriteau, eds., *Theoretical Perspectives on Gender and Development* (Ottawa: IDRC, 2000) 51-159 which provides the historical context of theorizing about women or gender and development.

⁶¹ *Ibid.* at 5.

⁶² Janet Henshall Momsen, *Gender and Development* (London: Routledge, 2003) at 8.

The different needs and priorities of men and women, and the importance of addressing these appropriately were given prominent recognition by the Council of Europe Report which stated:

For a long time - and it is often still the case - gender equality in Europe was defined as giving girls and boys, women and men *de jure* equal rights, equal opportunities, equal conditions and equal treatment in all fields of life and in all spheres of society. Nowadays, it is recognised that equality *de jure* does not automatically lead to equality *de facto*...the differences [between women and men] should not have a negative impact on the living conditions, should not discriminate against them and should contribute to an equal sharing of power in economy, society and policy making processes. Gender equality is not synonymous with sameness, with establishing men, their lifestyle and conditions as the norm.⁶³

The inequalities between men and women have persisted despite sustained opposition from women around the world. A reason for this persistent inequality, Lorber explains, is that “gender inequality is deeply ingrained in the structure of societies, built into the organisation of marriages and families, work and the economy, politics, religion, the arts and other cultural productions, and the very language we speak.”⁶⁴ Within these structures and spaces, it is the relegation of women as the “other”, the less valued sex, that serves as the flawed foundation of gender inequality,⁶⁵ despite the efforts and

⁶³ Council of Europe, Group of Specialists on Mainstreaming, *Gender Mainstreaming: Conceptual Framework, Methodology and Presentation of Good Practices*, Report EG-S-MS (98) 2, (1998) at 4.

⁶⁴ *Supra* note 57 at 8.

⁶⁵ Fiona Beveridge, Sue Nott & Kylie Stephen, “Setting the Scene: The Why, What and How of Promoting Equality Between the Sexes” in Fiona Beveridge, Sue Nott & Kylie Stephen, eds., *Making Women Count: Integrating Gender into Law and Policy-Making* (Hants: Dartmouth Publishing, 2000) at 11.

resources that have been invested in promoting equality during the course of the last century in places such as Europe and North America.⁶⁶

The subordinate position of women is not static⁶⁷ or uniform around the world. This means two things. First, there has been a gradual recognition of some rights of women in some jurisdictions, such as the right to vote and the right to inherit property. Unfortunately, in stating that the subordinate state of women is not static, this also means that inequality has undoubtedly taken on different forms and continues to present itself in numerous ways, in new ways, at different places and at different times. As a result, women have sought, in different ways, to respond to gender inequality. Alluding to this, Rai notes that

In their critique of mainstream development literature as well as practice, early feminist interventions were a plea for the inclusion of women in a “man’s world”. As feminist scholarship and activism became more self-confident, feminists noted that women were the constant “other” who as a category were either marginal to development theory and practice or included in it in very particular ways.⁶⁸

A brief overview of how feminist and women’s movements responded to inequality over the years, shows that in the 1970s, the two movements heightened their efforts and began to demand that the international community pay attention to persistent and systemic discrimination against women. This saw the adoption, in 1979, of the *United Nations Convention on the Elimination of All Forms of Discrimination Against Women*

⁶⁶ Beveridge, Nott & Stephen, *ibid* at 1.

⁶⁷ *Supra* note 60 at 144.

⁶⁸ Shirin M. Rai, *The Gender Politics of Development: Essays in Hope and Despair* (New Dheli: Zubaan, 2008) at 3.

(CEDAW),⁶⁹ essentially providing women with their own human rights treaty. Friedman explains:

CEDAW offered a range of solutions, even demanding that society itself should change. Most dramatically, Article 5 seeks the modification of social influences on individual conduct in order to eliminate “prejudices ... which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”

This push for the advancement of gender equality also encountered great resistance at the international level. “Unfortunately, to say that these demands were not easily accepted is an understatement. As a key indicator, states made more reservations when ratifying CEDAW than they did with any other human rights document.”⁷⁰ This notwithstanding, women around the world appreciate the importance of CEDAW, and continue to agitate for its ratification;⁷¹ in states where it has been ratified women rally for its domestication; and where it is domesticated women call for its fair and complete implementation and interpretation, especially within the courts. CEDAW has been extremely instrumental in aiding the pursuit of gender equality and the advancement of women nationally and internationally. While one may argue that its numerous reservations are a barrier to its full implementation, it can similarly be argued that the Convention does provide a solid foundation upon which gender equality can be cultivated, as it repeatedly calls on states

⁶⁹ *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 U.N.T.S. 3. CEDAW was adopted by the General Assembly in 1979, came into force on 3 September 1981 and has 186 parties to date. The convention seeks to address and remedy persistent discrimination against women in all spheres, in multiple ways and at all levels.

⁷⁰ Elisabeth Friedman, "Bringing Women to International Human Rights" (2006) 18 *Peace Review: A Journal of Social Justice* 479 at 480.

⁷¹ Such as in Tonga, Sudan and the United States.

to reaffirm their faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women.⁷²

For the benefit of my thesis, I will rely on the definition of gender equality offered by the Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI) at the United Nations, which states:

Equality between women and men (gender equality) refers to the equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration recognizing the diversity of different groups of women and men.⁷³

FEMINIST LEGAL THEORY, CRITIQUE & METHODOLOGY.

Feminist critique describes a form of feminist criticism that examines the ways in which women have been represented, or omitted, from male-authored texts.⁷⁴ At its simplest, feminist legal theorising “looks at the world through the lens of gender”⁷⁵ and “...has as its unshakeable core a commitment to breaking down the structures of gender subordination and a vision for women as full and equal participants with men at all levels of societal life.”⁷⁶

Gita Sen & Caren Grown clearly articulate the positioning of feminism as follows:

⁷² CEDAW, *supra* note 69, preamble.

⁷³ Online: Office of the Special Adviser on Gender Issues and Advancement of Women <<http://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>>.

⁷⁴ Sarah Gamble, *The Routledge Companion to Feminism and Postfeminism* (London: Taylor & Francis, 2001) online: MyiLibrary <<http://lib.myilibrary.com.ezproxy.library.uvic.ca/Browse/open.asp?ID=29128&loc=231>>.

⁷⁵ Kelly-Kate S. Pease, *International Organizations: Perspectives on Governance in the Twenty-First Century* 2d ed. (New Jersey: Prentice Hall, 2003) at 85.

⁷⁶ Gita Sen & Caren Grown, *Development, Crises, and Alternative Visions: Third World Women's Perspectives* (New York: Monthly Review Press, 1987) at 79.

Feminism cannot be monolithic in its issues, goals and strategies, since it constitutes the political expression of the concerns and interests of women from different regions, classes, nationalities, and ethnic backgrounds. While gender subordination has universal elements, feminism cannot be based on a rigid concept of universality that negates the variation in women's experience. There is and must be a diversity of feminisms, responsive to the different needs and concerns of women, and *defined by them for themselves*. This diversity builds on a common opposition to gender oppression and hierarchy...This heterogeneity gives feminism its dynamism and makes it the most potentially powerful challenge to the status quo. It allows the struggle against subordination to be waged in all arenas – from relations in the home to relations between nations – and it necessitates substantial change in cultural, economic and political formations.⁷⁷

This excerpt introduces to us two important issues that relate to feminist discourse and engagement. The first is the importance of the heterogeneity of feminism in order to ably address the varied issues that arise from the more varied experiences of women, and the second is the common goal to challenge gender subordination, gender oppression and hierarchy in the different ways it is manifested. Heterogeneous feminist theorising has developed within the legal academy as scholars and activists have sought to critically examine the role of the law and legal structures in continuing and heightening the subservience of women. This theorising has seen the growth of feminist jurisprudence over time. More specifically, legal feminist jurisprudence attempts to build a theoretical basis upon which to dismantle the subtle, yet invasive pillars of law and legal reasoning, that lend support to the continued domination of men over women through the application of the law. Nafine notes “the general purpose of legal feminism is to make sense of the many ways gender shapes law, to reveal the many ways that law, as a

⁷⁷ *Ibid.* at 18-19 [emphasis in original].

consequence, harms women, and to try to change law so that women are helped.”⁷⁸

Feminist jurisprudence builds on the critical understanding that “law is not an autonomous entity, distinct from the society that it regulates, but rather embraces the view that legal analysis cannot be divorced from the social, political, economic and cultural context in which people live.”⁷⁹ For many years, the site of analysis of legal feminists was limited to domestic law and discrete analyses of inter-jurisdictional law. Legal feminists in the academy have only recently begun to analyse the gendered state of international law,⁸⁰ observing that states and international organisations - as primary subjects of international law - reflect such a male-centred perspective⁸¹ that any reference to “human” is a masquerade, and international law is thus best described as “international men’s law”.⁸²

Even with the passage of CEDAW, the advancement of gender equality and the protection of women’s rights, especially economic rights, remains a great concern for women who continue “to fight to get their voices heard, despite new emphasis on democracy, voice and participation.”⁸³ The question that lingers is “Why?” It seems that, in spite of the seemingly successful articulation of women’s rights in instruments such as CEDAW and countless other international normative instruments touching upon the

⁷⁸ Ngaire Naffine, “In Praise of Legal Feminism” (2002) 22:1 L.S. 71 at 72.

⁷⁹ Charlesworth, Chinkin & Wright, “Approaches”, *supra* note 53, 613 at 613.

⁸⁰ International law has been defined *inter alia* as: “... that body of law which is composed for its greater part of the principles and rules of conduct which states feel themselves bound to observe, and therefore, do commonly observe in their relations with each other, and which includes also the rules of law relating to the functioning of international institutions or organisations, their relations with each other, and their relations with states and individuals.” I.A. Shearer, *Starke’s International Law* (Butterworths, 11th Edition, 1994), p 3.

⁸¹ Charlesworth, Chinkin & Wright, “Approaches”, *supra* note 53, 613 at 621.

⁸² *Ibid.* at 644.

⁸³ Andrea Cornwall, Elizabeth Harrison & Ann Whitehead, “Introduction” in Cornwall, Harrison & Whitehead, *Contradictions*, *supra* note 46, 1 at 1.

gendered dimensions of development, implementation measures remain the major “roadblock” in the realization of those rights. Implementation of existing rights must happen in a multi-dimensional, trans-systemic manner. For example, it is not simply a matter of legislative reform at the domestic level, or increased recognition and participation of women’s representative organizations at the regional or international level. Runyan asks a very important question that clarifies this conundrum: “How is global governance, in its current stunted form of economic-regime building, ‘framing’ women in ways that can undermine feminist struggles?”⁸⁴ This is an important question for legal feminists to ask and engage with, especially if economic justice is to become a reality. Addressing gender equality must go beyond minimalist priorities⁸⁵ to encompass the broader and more comprehensive arena of governance theory and practice and human rights.⁸⁶ This is especially true where the economic status of women within national jurisdictions continues to be directly and indirectly influenced by ideological positions that are dominant at an international level. This ideological positioning does not allow for a systematic incorporation of gender equality considerations.

⁸⁴ Anne Sisson Runyan, “Women in the Neoliberal ‘Frame’” in Mary K. Meyer & Elisabeth Prügl, eds., *Gender Politics in Global Governance* (Maryland: Rowman and Littlefield, 1999) 210 at 210.

⁸⁵ Minimalist priorities include prescribing universal primary education for girls as a target for realising the third Millennium Development Goal.

⁸⁶ See Hilary Charlesworth, “Not Waving but Drowning: Gender Mainstreaming and Human Rights in the United Nations” (2005) 18 *Harv. Hum. Rts. J.* at 1: “The idea behind gender mainstreaming is that questions of gender must be taken seriously in central, mainstream, ‘normal’ institutional activities and not simply left in a marginalized, peripheral backwater of specialist women’s institutions. The strategy implicates what Olympe de Gouges identified in the eighteenth century as the paradox of feminism: whether women’s rights are best protected through general norms or through specific norms applicable only to women.”

International Feminist Legal Theory Engaging With International Political Economy

My arguments within this thesis are based on my view of the importance of a universalist approach to rights held by all peoples, including human rights and, by extension, rights held by women. Human Rights carry normative value as a set of universally agreed values, standards and principles.⁸⁷ Presently, more than 80 percent of member states have ratified 4 or more of the 7 core international human rights treaties⁸⁸ and have consequently agreed with the universalist approach insofar as they have signed and ratified international human rights instruments. Indeed, much of the rights vocabulary utilized in international fora is in accordance with that found in normative international rights instruments.

From the colonial period until the end of the Second World War, development and human rights were traditionally articulated separately. Development was seen as being primarily the concern of economists, while human rights was an area for lawyers and activists.⁸⁹ It was, Mary Robinson argues, the entry of newly independent southern

⁸⁷ Human Rights-Based Approach to Development Programming. online: United Nations Development Group <<http://www.undg.org/?P=221>>.

⁸⁸ *Ibid.* The seven core international human rights treaties are: International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) – 1965; International Covenant on Civil and Political Rights (ICCPR) – 1966; International Covenant on Economic, Social and Cultural Rights (ICESCR) – 1966; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – 1979; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) – 1984; Convention on the Rights of the Child (CRC) – 1989; International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (ICMRW) – 1990.

⁸⁹ UNDP, 2000, *supra* note 51 at 2.

nations into the UN in the 1960s and 1970s that spurred the beginnings of attempts to bridge the two domains.⁹⁰

Observers have, however, raised several critiques of the rights discourse such as Mutua notes as follows:

“First, while it was absolutely necessary to employ rights discourse to energize the anti-apartheid movement, it is important for the ANC to realize that the rhetoric of rights is a double edged sword: it can be used both as a weapon and as a shield. Since 1994, all groups in South Africa –the wealthy and the powerful, the poor and the excluded, and even those who in the past blatantly violated the rights of others - have found either refuge or empowerment in the language of rights. As contradictory as their motives and intentions are, all these groups seek to protect or advance their interests through the medium of rights.”⁹¹

Other criticism of the rights discourse includes the extent to which the acquisition of legal rights generally advances women’s equality.⁹² Critics argue that the simplicity of the discourse means it is often difficult to boldly and ably address the intricate power relations that perpetuate inequality, whether on the grounds of race, gender or class.⁹³

Another concern is that the application of some rights, such as the right to the freedom of religion, affects women and men differently, often to the detriment of women.⁹⁴ More specific to the rights of women in Africa, Charlesworth, Chinkin and Wright argue that the development of the newer rights such as “[t]he promotion and protection of morals

⁹⁰ Mary Robinson, “Bridging the Gap between Human Rights and Development: From Normative Principles to Operational Relevance”, World Bank Presidential Fellows Lecture, 3 December 2001. Quoted in Andrea Cornwall & Celestine Nyamu-Musembi, “Putting the ‘Rights-based’ Approach to Development into Perspective” (2004) 25:8 *Third World Quarterly* 1415 at 1422.

⁹¹ Makau wa Mutua, “Hope and Despair for a New South Africa: The Limits of Rights Discourse” (1997) 10 *Harv. Hum. Rts. J.* 63 at 112.

⁹² Charlesworth, Chinkin & Wright, “Approaches”, *supra* note 53, 613 at 634.

⁹³ *Ibid.* at 635.

⁹⁴ *Ibid.*

and traditional values recognised by the community,⁹⁵ and the creation of communal or peoples rights” may be particularly problematic for women. They point out:

This contradiction between the emancipation of women and adherence to traditional values lies at the heart of and complicates discussion about human rights in relation to many Third World women. The rhetoric of human rights, on both the national and the international levels, regards as equal citizens, as ‘individuals’ subject to the same level of treatment and the same protection as men. But the discourse of ‘traditional values’ may prevent women from enjoying any human rights, however they may be described.⁹⁶

Certainly, the reality of these tensions, such as between the enforcement of traditional values versus the realisation of human rights, cannot be swept under the carpet, and women’s and feminist organisations are therefore continuously organising and engaging within states to dismantle the hierarchies that continue to perpetuate the subservience of women. This notwithstanding, the simple existence of a tension between traditional values and contemporary understandings of gender equality does not necessitate the complete rejection of gender equality.

Charlesworth and others acknowledge that “despite all these problems, the assertion of rights can exude great symbolic force for oppressed groups within a society and it constitutes an organising principle in the struggle against inequality...providing an

⁹⁵ *African Charter on Human and Peoples’ Rights*, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3/Rev.5 Banjul Charter, Article 17.

⁹⁶ “Approaches”, *supra* note 53, 613 at 637-638. See also Charlesworth, *supra* note 85 at 12, where she discusses the difficulty of translating the concept of gender into languages other than English, and at 16, where she states: “the term ‘gender’ remains keenly contested internationally. In the negotiations leading up to the adoption of the Beijing Platform for Action, for example, there was great controversy over the use of the word ‘gender.’ Some countries were concerned that it might be understood as including homosexuality and even bestiality.” This point about the use and meaning of language and the term “gender” in particular may be important when considering the interaction of gender equality with other articulated rights such as community rights or traditional values. As the international community moves in the direction of increasing recognition of traditional or community values, so shall gender inequality continue to be propped up by the (largely localized) demonization of the term “gender” or “gender mainstreaming”.

accepted means to challenge the traditional legal order and to develop alternative principles.”⁹⁷

Bunch further acknowledges that

“the concept of human rights is one of the few moral visions ascribed to internationally. Although its scope is not universally agreed upon, it strikes deep chords of response among many. Promotion of human rights is a widely accepted goal and thus provides a useful framework for seeking redress...further it is one of the few concepts that speaks to the need for transnational activism and concern about the lives of people globally”⁹⁸

Williams’ view on the importance of rights as a basis to challenge inequality manifested in its various forms is clear. Speaking on the importance of rights in the civil rights movement in the United States of America she wrote:

There are many good reasons for abandoning a system of rights which are premised on inequality and helplessness; yet despite the acknowledged and compelling force of such reasons, most blacks have not turned away from the pursuit of rights even if what CLS say about rights – that they are contradictory, indeterminate, reified and marginally decisive in social behaviour – is so...it is very hard to watch the idealistic or symbolic importance of rights being diminished with reference to the disenfranchised, who experience and express their disempowerment as nothing more or less than the denial of rights.⁹⁹

In this light, and in my view, human rights ought to be the starting and reference point for all discourse on addressing inequality in the variant forms it is expressed, the refrain of every song, and the running theme of every narrative. The importance of organising on the basis of rights cannot therefore be overstated, especially at an international level where it is important to:

⁹⁷ “Approaches”, *supra* note 53, 613 at 638.

⁹⁸ Charlotte Bunch, “Women’s Rights as Human Rights: Towards a Re-Vision of Human Rights” (1990) 12 Human Rights Quarterly 486 at 486-487.

⁹⁹ Patricia Williams, “Alchemical Notes: Reconstructing Ideal from Deconstructed Rights” (1987) 22 Harv. C.R. –C.L.L. Rev 401 at 404-405.

...reaffirm that the promotion and protection of, and respect for the human rights and fundamental freedoms of women, which are universal, indivisible, interdependent and interrelated, should be mainstreamed into all policies and programmes aimed at the eradication of poverty, and the need to take measures to ensure that every person is entitled to participate in, to contribute to and to enjoy economic, social, cultural and political development.¹⁰⁰

It may be correctly stated that the economic disparities between men and women are evidence of not only a flawed model of development pushed at an international level and within national policies, but also the subordination of women within a system that pertinaciously ignores the advancement of women's rights. As Sen and Grown note, "existing economic and political structures tend to be highly inequitable between nations, classes, genders and ethnic groups."¹⁰¹ It is therefore noteworthy that human rights can be of great significance in restating and emphasising the importance of respecting, protecting and fulfilling the rights of all.¹⁰² Unfortunately, this is not a reality, as Reilly argues "...a persistent chasm divides dominant human rights and development paradigms and militates against framing economic and social development as human rights issues."¹⁰³

I would like to stress that the emphasis I put on the importance of advancing equality and pursuing human rights as a basis for the passage of law and the formulation of policy related to development does not necessarily mean that a rights-based approach to

¹⁰⁰ Follow-up to the Fourth World Conference on Women and to the 23rd special session of the General Assembly, entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century", UNCSWOR, 52d Sess., Annex Agenda Item 3, E/CN.6/2008/L.8 (2007, 2008) at para 10.

¹⁰¹ *Supra* note 76 at 25.

¹⁰² UNDP, 2000, *supra* note 51 at 2.

¹⁰³ Niamh Reilly, *Women's Human Rights: Seeking Gender Justice in a Globalizing Age* (Cambridge: Polity Press, 2009) at 117.

development ought to be pursued, although this can certainly be presented as an option, such as in the case where some OECD member countries and multilateral donors “have adopted human rights based- approaches to development. Others have preferred to integrate human rights explicitly or implicitly into various dimensions of their development work.”¹⁰⁴ According to Marks, “The rights-based approach affirms that development should be pursued in a ‘human rights way’ or that human rights must be ‘integrated into sustainable human development’”.¹⁰⁵ Cornwall and Nyamu-Musembi further explain, “A rights-based approach calls for existing resources to be shared more equally and for assisting marginalised people to assert their rights to those resources.”¹⁰⁶

The *Covenant on Economic, Social and Cultural Rights*¹⁰⁷ and CEDAW are platforms on which structural economic and social reform can be pursued. Unfortunately, however, minimal attention has been paid at an international level to the realisation of social, economic and cultural rights in comparison to civil and political rights, and this weighs heavily on women, who are disproportionately disadvantaged, especially in the area of economic rights, despite seemingly great efforts to advance development. It is at this juncture that it becomes important for international legal feminists to engage with international political economy and international development discourse to interrogate

¹⁰⁴ Organisation for Economic Co-operation and Development, *Integrating Human Rights into Development: Donor Approaches, Experiences and Challenges* (Paris: OECD, 2006) at 3.

¹⁰⁵ Stephen P. Marks, “The Human Rights Framework for Development: Seven Approaches” in Mushumi Basu, Archana Negi, and Arjun K. Sengupta, eds., *Reflections on the Right to Development*, (New Delhi, Sage Publications, 2005) 23 at 27.

¹⁰⁶ *Supra* note 90 at 1417.

¹⁰⁷ *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966); 993 UNTS 3; 6 ILM 368 (1967).

the relationship between international law, including international human rights law, and the market to determine how this affects development.

In her paper entitled , “Who’s Afraid of the Critique of Adjudication?: Tracing the Discourse of Law in Development”¹⁰⁸ Rittich shows how the relationship between law and development has been fostered to ensure that the role of law is to be “a fortress, the bulwark against various threats to economic growth.”¹⁰⁹ She begins by noting that:

Law and governance now occupy a preeminent place in contemporary development efforts. Reports and policy statements of the major development institutions are replete with references to the benefits of the rule of law, and admonitions about the need for good governance from a central part of mainstream development discourse.¹¹⁰

She then proceeds to illustrate how the rule of law, and good governance have become integral matters within development discourse, that it would appear that they are now more prominent agendas than what are traditionally considered development parameters, such as the access to healthcare and clean drinking water.¹¹¹ This, according to Rittich, does mark an important shift in the way in which development is conceptualized.¹¹²

Further explaining the relationship between law and development, she observes:

...over and over again, law is presented as the instrument to remedy stalled development. In the most basic of ways, it facilitates transactions and stabilizes and regulates economic life, performing the enabling and co-ordinating functions without which the attempt to foster development especially in a globally integrated economy, is hopeless...The failure of economic development is identified with illegitimate incursions on the part of the state, the predations of special interest groups, and the limitless demands of the social sphere on the economy. Law functions here as the guardian of the market; legal

¹⁰⁸ Kerry Rittich, “Who’s Afraid of the Critique of Adjudication?: Tracing the Discourse of Law in Development” (2001) 22 *Cardozo L. R.* 929.

¹⁰⁹ *Ibid.* at 933.

¹¹⁰ *Ibid.* at 931.

¹¹¹ *Ibid.* at 932.

¹¹² *Ibid.*

rules and institutions confine such concerns and conflicts to their proper spheres, that is to say, beyond the realm of the market.¹¹³

It is clear, the market does not operate in a legal vacuum. At an international level, international institutions, within the unseen lines that demarcate their ideological spaces, regularly formulate policies, rules and laws that relate to markets, directly or indirectly. Further, the application of some of these policies and rules is often guaranteed through the application of another set of laws such as intellectual property laws, laws protecting property ownership and labour laws. It is within these ideological spaces that the importance of promoting, protecting and guaranteeing the respect of women's rights (especially economic rights) fades and altogether disappears. From this discussion, there are several points of entry from which legal feminists working within the international law paradigm can address the continued exclusion of gender by international organizations by revealing and disrobing the ways these organizations breach existing commitments to gender equality. Charlesworth, Chinkin and Wright stress the importance of feminist engagement with international law processes, noting:

A feminist account of international law suggests that we inhabit a world in which men of all nations have used the statist system to establish economic and nationalist priorities to serve male elites, while basic human, social and economic needs are not met. International institutions currently echo these priorities. By taking women seriously and describing the silences and fundamentally skewed nature of international law, feminist theory can identify possibilities for change.¹¹⁴

¹¹³ *Ibid.* at 933-934.

¹¹⁴ "Approaches", *supra* note 53, 613 at 615.

It is acknowledged that “All national and international economic and development policies affect women, in ways that advance or hinder gender equality.”¹¹⁵ It is important, therefore, for international legal feminists to engage with relevant processes. We live in a world where the global economic/trade paradigm is dominant over the human rights domain and, thus, where - instead of human rights framing the issues of economics and trade - the reverse is true.¹¹⁶ Feminist jurisprudence is consequently important because it “inquires not only into the harms of patriarchal law, but also into the possibility and characteristics of a world without patriarchal law”¹¹⁷ or laws that in their very application give life to the continued survival of patriarchal dispensations and systems. Feminist engagement within international political economy spaces is not new, as feminist economists and political scientists from the North and the South¹¹⁸ continue to be very critical of the market model that is championed by the West.

Methodology

In seeking to address the continuous exclusion and outsider status of gender within legal processes and frameworks, Bartlett suggests the three methods enumerated below as tools that can be used in “challenging and undermining dominant legal conventions and developing alternative conventions which take better account of women’s experiences and needs.”¹¹⁹ The methodology she suggests includes:

¹¹⁵ United Nations Development Fund for Women (UNIFEM) and the UN Non-Governmental Liaison Service (NGLS), *Bridging the Gap: Financing Gender Equality* (New York: UNIFEM/NGLS, 2008) at 3.

¹¹⁶ Kind thanks to Gigi Francisco who shared this with me (16 November 2009).

¹¹⁷ Heather Ruth Wishik, “To Question Everything: The Inquiries of Feminist Jurisprudence” (1985) 1 *Berkeley Women’s Law Journal* 64 at 64.

¹¹⁸ Including Drucilla Barker (USA), Lourdes Benería (Spain), Diane Elson (United Kingdom), Devaki Jain (India), Laura Parisi (USA), Gita Sen (India) and others.

¹¹⁹ Katharine Bartlett, “Feminist Legal Methods” (1990) 103(4) *Harv. L. Rev.* 829 at 831.

1. Asking the “woman question” - identifying and challenging those elements of existing legal doctrine that leave out or disadvantage women and members of other excluded groups.
2. Feminist practical reasoning - reasoning from an ideal in which legal resolutions are pragmatic responses to concrete dilemmas rather than static choices between opposing, often mismatched perspectives.
3. Consciousness-raising - seeking insights and enhanced perspectives through collaborative or interactive engagements with others based upon personal experience and narrative.¹²⁰

For the purposes of this thesis, I will employ the methodology of asking the “woman question(s)” to interrogate and elaborate on why and how gender equality continues to be a peripheral issue in development discourse, especially within international organisations. I have selected the woman question methodology over feminist practical reasoning because, even though the latter consists of an alertness to certain forms of injustice, which allows feminists to better understand and expose that injustice,¹²¹ the application of its technique within this analysis would be impracticable. As stated above, it reasons from an ideal in which legal resolutions are pragmatic responses to concrete dilemmas rather than static choices between opposing, often mismatched perspectives. Consequently, it would be onerous and impossible to establish and delineate, on a case-by-case basis, the dilemmas faced by women around the world, taking into consideration their multiple and varied lived experiences, for the purposes of determining a legal resolution to the concerns of aid effectiveness. Similarly, although consciousness-

¹²⁰ *Ibid.*

¹²¹ *Supra* note 119 at 863.

raising, a more interactive and collaborative process requiring an individual to articulate her experiences,¹²² is extremely useful, as it uses women's experience as a basis for enquiry, research and to suggest solutions,¹²³ it is unsuitable for the interrogation that I am carrying out, as I am scrutinising the ideology and practice of institutions.

The “Woman Question” Methodology: Benefits and Drawbacks.

In seeking to determine the gender impact of rules and practices that are often regarded as unbiased and objective, feminists in various disciplines, such as Carol Gould in philosophy, have employed the methodology of regularly asking a question or a set of questions in what is now referred to as the “woman question”. Within the context of law, asking the woman question means examining how the law fails to take into account the experiences and values that seem more typical of women than of men, for whatever reason, or how existing legal standards and concepts might disadvantage women. The question assumes that some features of the law may be not only non-neutral in a general sense, but also ‘male’ in a specific sense.¹²⁴

There are numerous benefits to asking “woman questions”, as they will, in this thesis, assist in ascertaining the importance assigned to gender equality within the aid effectiveness track and further aid in interrogating why it is an issue that continues to remain excluded from the ongoing international development discourse, even though people-centered development will only be realised if gender equality remains at the heart of international development law, policy and practice.

¹²² *Supra* note 119 at 863-864.

¹²³ Barbara Bailey, Elsa Leo-Rhynie & Jeanette Morris “Why theory?” in Parpart, Connelly & Barriteau, *supra* note 60, 1 at 8.

¹²⁴ Bartlett, *supra* note 119 at 837.

Primarily, such an approach assists in casting new eyes at the institutions and avenues of advocacy and voice accessible to women. Bartlett argues that “asking the woman question reveals the ways in which political choice and institutional arrangement contribute to women’s subordination. Without the woman question, differences associated with women are taken for granted and, unexamined, may serve as a justification for laws that disadvantage women.”¹²⁵ Secondly, asking the woman question “exposes the hidden effects of law that do not explicitly discriminate on the basis of sex.”¹²⁶ Despite the fact that there may not be explicit discrimination or exclusion, there are various functions and impacts of law that silence or exclude women, and this silencing or exclusion may be a function of procedural or substantive law. Thirdly, the methodology demonstrates how society consciously or unconsciously adopts norms that, in effect, impact women differently from men and therefore keep them in a subordinate position.¹²⁷

A key limitation of this methodology is that, while it seeks to draw out the exclusion of women and the impacts of such exclusion, it does not situate women’s exclusion beyond the basis of gender to include insights into other forms of discrimination that women face, such as on the basis of race, class, sexuality and disability. In her piece “On Law and Hegemonic Movements: Looking Beyond the Law Towards Subjectivities of Subaltern Women”, Parin Dossa introduces us to the woman she calls the “subaltern”, who is not homogeneous, but is regularly confronted with the interactive social

¹²⁵ *Ibid.* at 843.

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

constructs of race, gender and disability.¹²⁸ As with addressing gender inequality, addressing these forms of discrimination is important, as laws and policies often fail to take into consideration the subtle, often inadvertent impacts they have on racial and class relations between women and men, and even between women. Connelly and others emphasise this point, noting that “Women’s lives in the South are built around multiple axes — such as race, class, gender, culture, age, and ethnicity — which interact in complex and often unexpected ways, over both time and place”.¹²⁹ Unfortunately, the selected methodology will only primarily seek to unearth what Bartlett calls the “disadvantage based on gender”.¹³⁰

As earlier noted, the goal of asking woman questions within the law is to bring to the fore the implicit and explicit ways in which women are put at a disadvantage. It includes asking: “Have women been left out of consideration? If so, in what way; how might that omission be corrected? What difference would it make to do so?”¹³¹ In her piece, “To Question Everything: The Inquiries of Feminist Jurisprudence”, Ruth Wishik shares a list of seven questions she suggests might be used in a feminist inquiry into the relationship between law and society stressing that the questions can be posed to any aspect of law.¹³²

They are:

¹²⁸ Parin Dossa, “On Law and Hegemonic Movements: Looking Beyond the Law Towards Subjectivities of Subaltern Women” in Dorothy Chunn & Danny Lacombe, eds., *Law as a Gendering Practice* (Toronto: Oxford University Press, 2000) at 139.

¹²⁹ *Supra* note 60 at 95.

¹³⁰ *Supra* note 119 at 846.

¹³¹ *Ibid.*

¹³² *Supra* note 117 at 72.

1. What have been and what are now all women's experiences of the "life situation" addressed by the doctrine, process, or area of law under examination?
2. What assumptions, descriptions, assertions and/or definitions of experience – male, female, or ostensibly gender neutral - does the law make in this area?
3. What is the area of mismatch, distortion, or denial created by the differences between women's life experiences and the law's assumptions or imposed structures?
4. What patriarchal interests are served by the mismatch?
5. What reforms have been proposed in this area of law or in women's life situations? How will these reform proposals, if adopted, affect women both practically and ideologically?
6. In an ideal world, what would this woman's life situation look like, and what relationship, if any, would the law have to this future life situation?
7. How do we get there from here?¹³³

To determine why gender equality is generally not a central issue for consideration even within development discourse and policy formulation processes, where it should ideally be snugly situated, and with the aim of offering an international feminist legal critique of issues relating to aid effectiveness as a component of international political economy, I will ask two woman questions.

These two questions, modified slightly from those provided above are as follows:

¹³³ *Ibid.*

1. What assumptions were made with respect to the parties, priorities and process of the aid effectiveness regime?
2. Were gender equality concerns left out of consideration in determining the parties, priorities and processes of the aid effectiveness regime?

The first question is a derivative of question number 2 from Wishik's list, while the second question is an adoption of one of the questions asked by Bartlett. By asking these specific questions, I assert that often international development decisions and policies do not benefit all persons, because in reaching these decisions, several wide-sweeping generalities are made and conclusions drawn, and applied to all. This may occur inadvertently, such as where assumptions are made, or advertently, where issues relating the advancement of women's rights and gender equality are given casual treatment, or simply ignored.

Asking these questions will help us better understand why gender equality continues to remain excluded from international development policy frameworks and processes.

CHAPTER 3 - GENDER EQUALITY AND DEVELOPMENT: DISCOURSE ON INTERPLAY

*Equality between the sexes is like a modern day mantra. Like motherhood and apple pie, everyone is in favour of it. Why...and to what end is another matter.*¹³⁴

Beveridge, Nott & Stephen, Setting the Scene: The Why, What and How of Promoting Equality Between the Sexes

*So successful has liberalism been in portraying society as a community of equal genderless, raceless, classless, ageless and equally-able-bodied persons, that a conscious and systematic effort is required in order to unmask the reality of inequality and oppression.*¹³⁵

Hilaire Barnett, Sourcebook on Feminist Jurisprudence

The ideologies espoused by international organisations have not only informed the view and definition of concepts and themes such as gender equality, but have also shaped the organisational culture and approach to the subject

The World Bank was initially relatively slow in addressing the role of women and broader gender issues in the economic development process,¹³⁶ and only began in the 1970s to pay attention to the advancement of gender equality in its work, and respond to women in development (WID) and gender and development (GAD) movements.¹³⁷ In

¹³⁴ Beveridge, Nott & Stephen, *supra* note 65 at 4.

¹³⁵ Hilarie Barnett, *Sourcebook on Feminist Jurisprudence* (London: Taylor & Francis, 2003) at 93, online: MyiLibrary <<http://lib.myilibrary.com.ezproxy.library.uvic.ca/Browse/open.asp?ID=16527&loc=93>>.

¹³⁶ Zafiris Tzannatos, "The World Bank, Development, Adjustment and Gender Equality" in Drucilla K. Barker & Edith Kuiper, eds., *Feminist Economics and the World Bank: History, Theory and Policy* (London: Routledge, 2005) 13 at 21.

¹³⁷ Fiona Beveridge, "International Law: Modern Feminist Approaches" in Buss & Manji, *supra* note 37, 159 at 194.

her paper titled “An Assessment of Efforts to Promote Gender Equality at the World Bank”,¹³⁸ Long presents to us the far from satisfactory record of the Bank in its attempt to promote gender equality in its policy and operational initiatives over 25 years. She brings to light the Bank’s philosophical approach to gender issues, which she describes in this way: “gender equality is promoted primarily through an ‘economic efficiency’ argument which means that attention to gender concerns is important so as to develop better projects and policies in order to achieve economic growth and reduce poverty”.¹³⁹ The economic efficiency approach taken by the Bank has been consistent over time. The Bank also holds the view that, when gender inequalities persist, they hamper growth.¹⁴⁰ In its gender and development policy, the Bank states that its objective is “to assist member countries to reduce poverty, and enhance economic growth, human well-being, and development effectiveness by addressing the gender disparities and inequalities that are barriers to development.”¹⁴¹

Its boldest statements to date on the urgency of addressing gender equality solely to realise economic growth and development were clearly articulated in the 2001 World Bank Report *Engendering Development: Through Gender Equality in Rights, Resources and Voice*. In the report, the immediate past president of the Bank, James Wolfensohn, stated that “gender inequalities hinder development”,¹⁴² and that “ignoring gender

¹³⁸ Carolyn M. Long, “An Assessment of Efforts to Promote Gender Equality at the World Bank” in Barker & Kuiper, *supra* note 136, 40-56.

¹³⁹ *Ibid.* at 42.

¹⁴⁰ See World Bank, *Toward Gender Equality: The Role of Public Policy* (Washington D.C.: World Bank, 1995).

¹⁴¹ Tzannatos, *supra* note 136 at 30.

¹⁴² James D. Wolfensohn, “Forward” in *Engendering Development Through Gender Equality in Rights, Resources and Voice* (New York: Oxford University Press, 2001) xi at xi.

disparities comes at great cost-to people's well-being and to countries' abilities to grow sustainably and to govern effectively".¹⁴³ In more detail, the report explained:

[...] gender inequalities undermine the effectiveness of development policies in fundamental ways. Yet this is an issue that often lies only at the periphery of policy dialogue and decision-making, both in national and international arenas.

It is clear that the Bank sees the relationship between its understanding of development and gender equality in highly defined way. According to the Bank and its policies, the role of an empowered woman is to contribute to the economic growth of her country and, where it is evident that the subordination of women and persistent inequality will get in the way of economic growth, this needs to be addressed. This view of the Bank is consistent with its values, and it is grounded in its neoliberal economic ideology; consequently, it is important to examine and interrogate this ideology for the purposes of better understanding the interplay between development and gender equality.

NEOLIBERAL ECONOMICS

As we saw in the first chapter, when the Bank was founded in 1944 at the end of the Second World War, its main assignment was to aid with the reconstruction of post-war Europe. The Bank's mission and focus then shifted to the alleviation of worldwide poverty.¹⁴⁴ Along with the IMF, the Bank has for many years played an integral role in shaping and informing the pace and path of development policy for many countries in Africa, Asia and Latin America. Whether applauded or otherwise, it is further

¹⁴³ *Ibid.* at xi.

¹⁴⁴ The mission of the World Bank is "To fight poverty with passion and professionalism for lasting results. To help people help themselves and their environment by providing resources, sharing knowledge, building capacity and forging partnerships in the public and private sectors." See online: The World Bank <<http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/0,,contentMDK:20040565~menuPK:34563~pagePK:345>>.

acknowledged that the foundational basis of these policies is neoliberal economic theory, an ideology the Bretton Woods institutions embraced with their transition from post-war reconstruction efforts to development financing and poverty reduction efforts.

Neoliberal economic theorists generally advance the view that markets are efficient, and therefore a stable macroeconomic environment characterised by low inflation, secure property rights, and restrained government will attract private investment leading to growth.¹⁴⁵ In the 1960s and early 1970s, the application of neoliberal economic tenets allowed governments more freedom to set interest rates, influence currency rates, to tax and spend.¹⁴⁶ As the years went on, however, some theorists began to argue that the widespread involvement of the state in economic activities was leading to inefficiency and slower rates of economic growth than would be achieved if the market were left to its own devices.¹⁴⁷ The trend then began to change. The development discourse in the 1980s was then based on the belief that, once created, state interventions in markets must be kept to a bare minimum¹⁴⁸ and that growth and development would arise from the stabilisation, liberalisation and privatisation of economics. Each of these components was justified by neoliberal economic theorising.¹⁴⁹ As Stein points out:

... [By this time] the Bank's economists were happy to see this ideological shift towards neoliberalism because it was central to their core beliefs as classically trained economists. There was a great deal of enthusiasm when Washington pushed its new set of like minded policy priorities in the 1980s.¹⁵⁰

Two distinct components at the core of neoliberal economic theorising are as follows:

¹⁴⁵ John Rapley, *Globalization and Inequality: Neoliberalism's Downward Spiral* (Colorado: Lynne Rienner Publishers, 2004) at 75.

¹⁴⁶ Howard Stein, *Beyond the World Bank Agenda* (Chicago: University of Chicago Press, 2008) at 60.

¹⁴⁷ Katie Willis, *Theories and Practices of Development* (Oxon: Taylor & Francis, 2005) at 47.

¹⁴⁸ David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005) at 2.

¹⁴⁹ *Supra* note 146 at 25.

¹⁵⁰ *Ibid.* at 17.

1. *Homo Economicus* or Economic Man

This is a rationally calculating individual who naturally seeks to maximise his welfare.¹⁵¹

The individual has the ability to order his preferences (likes and dislikes) in a manner that is logically consistent, and then, given that preference structure, to make choices that maximise his self-interest.¹⁵²

2. Methodological Individualism

Barker explains that methodological individualism assumes that analyses of social phenomena start from an analysis of individual behaviour. Therefore, an economic system is conceived of as a collectivity of rational economic agents who maximise their utility (or profits, in the case of firms) subject to the constraints placed on them by prices and incomes. Individual economic decisions are co-ordinated through markets, and economic outcomes are simply the collective results of their choices.¹⁵³

FEMINIST LEGAL CRITIQUE OF NEOLIBERAL ECONOMICS

World Bank policies emanating from the above theories have not met the desired results of eliminating poverty or reducing inequality, including gender inequality. Several foundational assumptions underlie the arguments made above, and it is important to challenge these arguments, as they perpetuate inequality between people based on gender, race and class. Using an international feminist legal lens to show the inadequacies of the theoretical deductions, I contend that women and men should have political, social and economic equality.

¹⁵¹ *Ibid.* at 60.

¹⁵² Drucilla Barker, "Neoclassical Economics" in Janice Peterson & Margaret Lewis, eds., *The Elgar Companion to Feminist Economics* (Cheltenham: Edward Elgar, 1999) 570 at 571.

¹⁵³ Drucilla Barker, "Neoclassical Economics" in Peterson & Lewis, *supra* note 152, 570 at 571.

1. Critique of *Homo Economicus* or Economic Man

In relying on the construction of the *homo economicus*, neoliberal theorists make the assumption that, first, all individuals have the ability to order their preferences and that, having made such orders, will receive their demands. Secondly, they assume that any and all individuals have freedom of choice and can act freely based on the choices they have made. Finally, these theorists assume that all individuals in society are equal and that their interests will be equally met.

These assumptions do not hold for several reasons. First, not all people are able to demand or take care of their own needs. Strassman observes “while this assumption may be typical of the perceived experiences of white male middle-class economists, it fails to capture the economic reality for many others such as children, the elderly, the infirm, and those who do not have independent access to economic resources.”¹⁵⁴ The second assumption is also inaccurate: women and colonised peoples have not always had the privilege of choice. Levit and Verchick indicate that “women’s comparative lack of financial resources limits their choices in family and economic matters.”¹⁵⁵ In addition, women all over the world continue to demand the rights to choose on issues such as ownership of property and abortion. Different parties usually make these decisions for women, and it does not hold, therefore, that every individual is an evaluating, choosing, and acting agent. On the third point, it is incorrect to assume that all individuals in society are equal and that their interests will be equally met. West espoused this aptly when she said:

¹⁵⁴ Diana Strassman, “Not a Free Market: The Rhetoric of Disciplinary Authority in Economics” in Marianne A. Ferber & Julie A. Nelson, eds., *Beyond Economic Man: Feminist Theory and Economics* (Chicago: University of Chicago Press, 1993) 54 at 54.

¹⁵⁵ Nancy Levit & Robert R.M. Verchick, *Feminist Legal Theory: A Primer* (New York: New York University Press, 2006) at 223.

There is still no society where women enjoy the same opportunities as men. Women remain the “second sex”, defined as “the Other” in relation to men ... a significant reason for the continuing inequalities is that women are forced to operate within masculinised organisations and structures.¹⁵⁶

Women have for many years fought for formal and substantive equality. Although they have gained the right to vote in most countries, their suffrage is not universal. In social and economic life, their rights have been vastly circumscribed by their gender.¹⁵⁷ In further stressing that not all interests are equally met, Rai points out that

...while women have been the constant “other” within patriarchal societies, there have also been other “otherings” going on as women have stepped out to challenge their subordinate position. These have been on grounds of class, race, disability, sexuality, religion and location - any number of categories that we have constructed in/through our stories of ourselves.¹⁵⁸

In addition, critical race feminists emphasise the ways racism, classism and sexism often intersect the lives of women and men of colour, such as in a job market where poor women of colour must overcome a “triple” disadvantage as they confront challenges of income, race and gender.¹⁵⁹ From this, it is evident that the theorizing around *homo economicus* needs to change, to be dismantled, and new, reconstructed theories and ideologies must not only acknowledge the gender, class and race distinctions that are present in society, but must also redress the disparities the neoliberal dispensation has perpetuated.

2. Critique of Methodological Individualism

In relying on the argument of methodological individualism, neoliberal economic theorists assume that the analysis of a single individual’s behaviour is able to provide a

¹⁵⁶ Lois West, "The United Nations Women's Conferences and Feminist Politics" in Mary K. Meyer & Elisabeth Prügl, eds., *Gender Politics in Global Governance* (Lanham, MD: Rowman & Littlefield, 1999) 177 at 177.

¹⁵⁷ Friedman, *supra* note 70 at 479.

¹⁵⁸ *Supra* note 68 at 3.

¹⁵⁹ Levit & Verchick, *supra* note 155 at 10-11.

complete analysis of social phenomena. This is not so. As we have seen above, individuals in society display differences according to gender, race, and class. These differences inform their experiences and behaviour. Therefore, in analysing the behaviour of one person and using this to represent the behaviour of all others, one does an injustice to all others in ignoring their differences and experiences. As Finley states:

Universal and objective thinking is male language because intellectually, economically, and politically privileged men have had the power to ignore other perspectives and thus to come to think of their situation as the norm, their reality as reality...Disempowered, marginalised groups are far less likely to mistake their situation, experience, and views as universal.¹⁶⁰

Sandra Harding stresses this point of difference:

For one thing, once we realized that there is no universal *man*, but only culturally different men and women, then “Man’s eternal companion ‘woman’” also disappeared. That is, women come only in different classes, races, and cultures: there is no “woman” and no “woman’s experience.” Masculine and feminine are always categories within every class, race, and culture in the sense that women’s and men’s experiences, desires, and interests differ within every class, race, and culture. But so too, are class, race, and culture always categories within gender, since women’s and men’s experiences, desires, and interests differ according to class, race, and culture.¹⁶¹

Evidently, this is another reason for the re-examination, re-thinking, and re-conceptualisation of the neoclassical, neoliberal theory in order to address these gaps. It is unfortunate that numerous policies over the years have been developed and applied upon this basis with no apparent tangible reduction in poverty. This can best be summed

¹⁶⁰ Lucinda Finley, “Breaking Women’s Silence in Law: The Dilemma of the Gendered Nature of Legal Reasoning” (1989) 64 *Notre Dame Law Review*, 886.

¹⁶¹ Susan Harding, “Introduction: Is There a Feminist Method?” in Susan Harding, ed., *Feminism and Methodology: Social Science Issues* (Bloomington: Indiana University Press, 1987) at 7-8.

up in the words of Stein: “[p]oorly conceived theory gives rise to policies that give rise to poor economic outcomes.”¹⁶²

THE WORLD BANK AND GENDER EQUALITY

In the compilation of essays titled *International Law: Modern Feminist Approaches*,¹⁶³ Fiona Beveridge, through her essay “Feminist Perspectives in International Economic Law”,¹⁶⁴ examines the implementation of gender in the work of the World Bank by considering the Bank’s processes and its normative framework.

In looking at the gender-based claims in the processes of the Bank, Beveridge considers two areas. The first is the Bank’s growing interaction with non-governmental organisations, and the second the Bank’s efforts to respond to the need to take gender into account in the design and implementation of development strategies. Her observations in these two areas are that the Bank has more than shown its internal commitment to institutionalise gender, and gender has found a place in the process of the World Bank. She further observes that despite its “closed” nature, the Bank seems to have engaged with its critics in the NGO community.¹⁶⁵

These observations are valid. The launch of the World Bank report “Engendering Development: Through Gender Equality in Rights, Resource and Voice”¹⁶⁶ gives us a glimpse of what could be seen as a “more gender aware bank”. While, as legal feminists, we take cognisance of the newly engendered World Bank, what are the “woman questions” we should ask that are relevant to better interrogating international economic

¹⁶² *Supra* note 146 at 253.

¹⁶³ *Supra* note 37.

¹⁶⁴ Fiona Beveridge, “International Law: Modern Feminist Approaches” in Buss & Manji, *supra* note 37, 173 at 173.

¹⁶⁵ *Ibid.* at 196.

¹⁶⁶ World Bank, *Engendering Development: Through Gender Equality in Rights, Resources, and Voice* (New York: Oxford University Press, 2001).

institutions? Does this process of “engendering the Bank” take us to the root of the matter, the place where all policy and laws of development emanate? Feminists in other disciplines point out that even though the Bank has improved on its engendered language, gender analysis has increasingly been reduced to technical and sectoral matters and is not being used as a political tool for women’s emancipation and empowerment.¹⁶⁷ Other critiques of this “engendering movement” note that an entire lexicon of terms that were once associated with feminist activism have come to be laden with the attributed meanings of development agencies.¹⁶⁸ This is evident in the World Bank definition of “empowerment” as the process of enhancing an individual’s or group’s capacity to make purposive choices and to transform these choices into desired actions and outcomes,¹⁶⁹ a definition which, in my assessment, sits very comfortably in the nest of the components of the neoliberal economic policies we have seen above. This Bank definition is in stark contrast to the one offered by Srilatha Batiwala, the author of a report that helped put empowerment on the development map. In this report, Batiwala defines empowerment as a process that shifts social power in three critical ways: by challenging the ideologies that justify social inequality; by changing prevailing patterns of access to and control over economic, natural, and intellectual resources; and by transforming the institutions and structures that reinforce and sustain existing power structures.¹⁷⁰

¹⁶⁷ Zo Randriamaro, “Gender and Economic Reforms in Africa: The Hidden Political and Ideological Agenda” online: Third World Network <<http://www.twinside.org.sg/title/twr122i.htm>>.

¹⁶⁸ Andrea Cornwall, Jasmine Gideon & Kalpana Wilson, “Introduction - Reclaiming Feminism: Gender and Neoliberalism” (2008) 39.6 Institute of Development Studies Bulletin 1 at 3.

¹⁶⁹ Ruth Alsop, Nina Heinsohn & Abigail Somma, “Measuring Empowerment: An Analytic Approach” in Ruth Alsop, ed., *Power, Rights and Poverty: Concepts and Connections* (Washington D.C: World Bank, 2005) at 120.

¹⁷⁰ Srilatha Batiwala, “Taking the Power Out of Empowerment – An Experiential Account” (2007) 17:4 & 5 *Development in Practice* 557 at 560. It is important to mention that while I cite

It is evident that, while these efforts by the Bank are laudable, the “engendering” process and the increased engagement of the Bank with the other development actors has not necessarily been translated into or seen a shift from neoliberal economic theorising towards policies that reduce poverty levels, and thereby improve the lives and livelihoods of women. Poverty remains persistent, and women continue to be the greatest sufferers.¹⁷¹ The “engendering” process and increased engagement have therefore not provided a tangible solution to the heart of the problem: the economic theory.

In the second part of her analysis, Beveridge looks at the normative framework and introduces us to the Comprehensive Development Framework (CDF).¹⁷² In so doing, she brings to the fore the deeply gendered economic/social dichotomy within the CDF that posits macro-economic policies and laws on the one hand and “social and human” laws on the other hand.¹⁷³ Unfortunately, this binary is usually manifested in law and policy-

Batiwala’s understanding of empowerment, the definition of what empowerment constitutes is contested. Naila Kabeer defines it as “the expansion in people’s ability to make strategic life choices in a context where this ability was previously denied to them” See Anju Malhotra, Sidney Ruth Schuler & Carol Boender. "Measuring Women's Empowerment as a Variable in International Development." International Center for Research on Women and the Gender and Development Group of the World Bank (2002) at 6, online: World Bank <www.worldbank.org/poverty/empowerment/events/feb03/pdf/malhotra.pdf>. Sarah Mosedale defines it as “the process by which women redefine and extend what is possible for them to be and do in situations where they have been restricted, compared to men, from being and doing.” Sarah Mosedale, “Assessing Women’s Empowerment: Towards a Conceptual Framework.” (2005) 7.2 *Journal of International Development*, 243 at 252.

¹⁷¹ New statistics show that in the least developed countries and the developing countries, 1 in every 24 women in Africa, and 1 in every 76 women in Asia die in childbirth. This is compared to 1 in every 8,000 women in industrialised countries. See: State of the World’s Children Report, 2009 on Maternal and Child Health, online UNICEF <<http://www.unicef.org/sowc09/>>.

¹⁷² This is a framework that encompasses a set of principles to guide development and poverty reduction of the World Bank, including the provision of external assistance. It can be found on the online: World Bank <<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/STRATEGIES/CDF/0,,pagePK:60447~theSitePK:140576,00.html>>.

¹⁷³ Diane Elson & Nilufer Çagatay, “The Social Content of Macroeconomic Policies” (2000) 28:7 *World Development* 1347 at 1351.

making, where legislation concerning social and economic issues is passed separately.

Elson and Çagatay further observe:

Although there is now widespread recognition of the need to integrate macroeconomic management and “social policies”, there is still a strong tendency to think this means continuing to design policies with a focus on market based criteria, an overriding emphasis on stabilising the price level and reducing the role of the state, and then *adding* social policies in order to achieve socially desirable outcomes such as poverty reduction.¹⁷⁴

Tzannatos’ observation that the Bank’s thinking and activities on gender areas can be only as good as its overall philosophy and quality of operations is accurate,¹⁷⁵ for a philosophy rooted in economic efficiency will generate economic efficiency policies.

THE OECD DAC AND GENDER EQUALITY

An interpretation and articulation of gender equality by the Development Assistance Committee of the OECD, with respect to the interplay of gender equality and development within a market dispensation, will very likely be similar to the position advanced by the Bank. The Committee, which is branded as a unique international forum, is comprised of 23 member countries from donor governments, and multilateral organisations, including the World Bank, who come together to, among other things, provide analysis and guidance in key areas of development.¹⁷⁶ The 23 member states are: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Korea, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom and the United States. It is noteworthy that the same states that define the ideologies, shape the directions, and outline the

¹⁷⁴ *Ibid.* at 1347.

¹⁷⁵ *Supra* note 136 at 21.

¹⁷⁶ Online: Organisation for Economic Co-operation and Development
<http://www.oecd.org/about/0,3347,en_2649_33721_1_1_1_1_1,00.html>

agendas of the Bank are the same member states within the OECD. It is therefore unlikely that the positions and ideologies of the two organisations will be at variance with each other. A cursory glance at the Executive Board of the International Bank for Reconstruction and Development (IBRD), one of the Bank's institutions, shows that, of the 24 seats available for Executive Directors, half are held by OECD DAC members.¹⁷⁷ This includes the five automatic seats that are given to the five largest shareholders of the Bank (currently the United States, Japan, Germany, France and the United Kingdom).¹⁷⁸

SHORTCOMINGS OF THE INTERPLAY OF GENDER EQUALITY AND DEVELOPMENT: EFFICIENCY VERSUS EMPOWERMENT

Under the efficiency model, “the higher the growth rate, the better off a society is as a whole. National well-being is thus measured according to the growth of a country's gross national product.”¹⁷⁹ The model of gender equality espoused by the Bank is that the advancement of gender equality should be prioritised as one of many different pre-requisites that need to be met for improved attainment of economic growth; and the approach of the OECD is that gender equality is a functionally vital notion that needs to be rolled out to achieve the ultimate goals of poverty reduction, increased growth, built capacity and the acceleration and achievement of the MDGs.¹⁸⁰ Critical of this, however, Bergeron states:

¹⁷⁷ Online: World Bank Group <<http://siteresources.worldbank.org/BODINT/Resources/278027-1215526322295/BankExecutiveDirectors.pdf>>.

¹⁷⁸ Online: Organisation for Economic Co-operation and Development <http://www.oecd.org/document/38/0,3343,en_2649_34603_1893350_1_1_1_1,00.html>.

¹⁷⁹ Joanna Kerr, *Women's Rights in the Global Economy: Can Feminists Transform Development?* (Guelph: University of Guelph, 1998) at 10.

¹⁸⁰ This is the Outcome Document from a workshop themed “Development Effectiveness in Practice: Applying the Paris Declaration to Advancing Gender Equality, Environmental Sustainability and Human Rights” held in Dublin, Ireland, April 2007 at 2. Online: Organisation for Economic Cooperation and Development <<http://www.oecd.org/dataoecd/30/20/38933324.pdf>>.

While not disputing the claims...that emphasize the importance of reducing gender inequalities in the interests of national and international development can be extremely strategic for allocating resources to women, it is perhaps more important to remind ourselves of the need to maintain boundaries between empowerment as a route to development efficiency and empowerment as a goal for women per se.¹⁸¹

Parisi emphasizes this point, stating that “the World Bank’s report...is focused on the notion of facilitating and promoting neo-classical economic development rather than actually gendering development.”¹⁸² She further adds “...The World Bank’s approach serves to reify masculinist neo-classical/liberal ideology under the guise of promoting gender equality and as a result, the World Bank’s approach can tell us little about gender oppression in development.”¹⁸³

While I agree with the above-stated position, that development policies are not fully effective and are greatly weakened because of gender inequality, I differ with the position put forth by the OECD and the Bank that gender inequality concerns need to be addressed because addressing them will accelerate economic growth. The advancement of gender equality must be on the basis that women have an inherent right to equality. The urgency to provide local, national and international spaces where all humans are treated and seen as equal, and where equal opportunities are afforded to all, must be the foundation upon which gender equality is pursued. This position and reasoning is clearly elusive within the Bank’s philosophy on gender equality. According to the Bank, efficiency is central, an attitude Bergeron calls the “rhetorical strategy of tying the goals

¹⁸¹ Sylvia Chant, “Contributions of a Gender Perspective to the Analysis of Poverty” in Jane Jaquette & Gale Summerfield, eds., *Women and Gender Equity in Development Theory and Practice Institutions, Resources, and Mobilization* (Durham: Duke University Press, 2006) 87 at 102.

¹⁸² Laura Parisi, “‘Disciplining’ and ‘Engendering’ the World Bank: A Comment” in Barker & Kuiper, *supra* note 136, 199 at 204.

¹⁸³ *Ibid.* at 204.

of women's equality instrumentally to achieving the goals of economic growth"¹⁸⁴ and focuses on "what women can do for development rather than on what development can do for women."¹⁸⁵ Unfortunately, "the abuse of women's rights simply fails to produce a sense of a life-threatening, economy-paralysing crisis, in the same way that humanitarian emergencies, environmental disasters or uncontrolled capital flows do."¹⁸⁶ Empirical studies have shown that economic growth alone may not improve the well-being of the vast majority of people in the Third World.¹⁸⁷ The pursuit of profit maximisation will therefore continue to see a growing rift between the "few winners" of economic growth and the "many losers", who are, more often than not, the very women upon whose backs economic growth was built. "From the perspective of a large majority of people living in low and even middle income countries – and for all concerned with global justice – development as we know it had failed to meet expectations."¹⁸⁸ Gita Sen clearly states that, unfortunately,

The dominance of the Bretton Woods model has led to the belief worldwide, that economic growth is the highest priority. But the critical question is "what kind of growth?" Is it growth whose main role is to support balance of payments stability so as to make it easier for financial capital to flow between countries, or should it be the type of growth that improves the lives of ordinary people and promotes sustainable use of sustainable resources?¹⁸⁹

¹⁸⁴ Suzanne Bergeron, "Colonizing Knowledge: Economics and Interdisciplinarity in Engendering Development" in Barker & Kuiper, *supra* note 136, 127 at 135.

¹⁸⁵ Momsen, *supra* note 62 at 14.

¹⁸⁶ Anne-Marie Goetz & Joanne Sandler, "SWApping Gender: From Cross-Cutting Obscurity to Sectoral Security?" in Cornwall, Harrison & Whitehead, *Contradictions*, *supra* note 46, 161 at 163.

¹⁸⁷ Rose-Marie Avin, "Engendering Development: A Critique" in Barker & Kuiper, *supra* note 136, 65 at 67.

¹⁸⁸ Benería, *supra* note 27 at 161.

¹⁸⁹ Gita Sen, "Outline of DAWN's Platform on Alternative Economic Frameworks" (Paper presented at the DAWN Africa Debates on Alternative Development Frameworks in Dakar,

In view of this, what are the options that are available to women to help ensure that calls for equality are sustained and remain on the development agenda? Sen and Grown argue that “equality for women is impossible within the existing economic, political and cultural processes that reserve resources, power and control for small groups of people.”

¹⁹⁰ They are quick to add, however, that “...neither is development possible without greater equity for and participation by women.”¹⁹¹

IS GENDER EQUALITY CENTRAL TO DEVELOPMENT?

In light of the above discussion and re-examining the statement “Gender equality is central to development”, as stated in the DFID *Gender Equality Action Plan*, and the EC/UN *Partnership on Gender Equality for Development and Peace* brochure, The United Nations Development Fund for Women (UNIFEM) and the International Training Centre of the International Labour Organization (ITC/ILO) do not further explain their assertion that gender equality and women’s empowerment are central to strengthening development effectiveness. They do, however, express their support for the “integration of gender equality as a key driver of development in the context of the aid effectiveness agenda.”¹⁹² On the contrary, the understanding and use of gender equality within the DFID document is clear and detailed. It states: “Gender equality is not a complicated idea. It’s simple: women must have the same rights as men and discrimination has to stop.”¹⁹³ The policy further explains:

Senegal, 11 November 1994), *From There is No Alternative to There Must Be an Alternative: Proceedings of the DAWN Africa Debates on Alternative Development Frameworks, Dakar 1994* (Cape Town: SADEP, 1997) at 10.

¹⁹⁰ *Supra* note 75 at 19-20.

¹⁹¹ *Ibid.*

¹⁹² *Supra* note 43.

¹⁹³ *Supra* note 41 at 4.

DFID's *Gender Equality Action Plan* sets out our aim to ensure that gender equality and women's rights are central to development, and that we are able to meet the challenges ahead. So putting the Plan into action means that from now on we will look at everything we do – and ask this question: What does this mean for women and for girls? We are committed to making sure that the Plan marks a real change in the way that we do all our work – and that the end result is real difference for women and girls.¹⁹⁴

Where should gender equality be located within development discourse? What is the role of development within a greater discussion about how to achieve gender equality for half of the world's population? How should the two relate?

This leads us to ask two main questions:

1. Is development necessary to realise gender equality? or
2. Is gender equality necessary to realise development?¹⁹⁵

Determining the interplay between development and gender equality is key in providing the backdrop against which development/equality ideology is shaped, policies are formulated and efforts are pursued. It is important to note that an interrogation of these statements must be within a defined context of what constitutes development and what is meant by gender equality, as shall be further elucidated below.

Is Development Necessary to Realise Gender Equality?

This question essentially seeks to determine whether the achievement of equality constitutes an end goal of development. The view of many development practitioners and institutions is that, in implementing a development agenda over a period of time, as an outcome, equality gaps and differences between men and women will be considerably narrowed, more opportunities will be availed to women to participate, and eventually,

¹⁹⁴ *Ibid.* at 26.

¹⁹⁵ Many thanks to Dr. Laura Parisi for her assistance in clearly articulating and defining these two questions.

continued development efforts will result in the full realisation of equality between the sexes.

Several reasons may be given to justify why the attainment of equality should not be made a goal of development. First, and as we have seen, the definition of what constitutes development varies greatly. Unfortunately, the world view, the dominant view of development is narrow, and it is therefore not an exaggeration to say that the flawed neoliberal, growth-premised model of development will never realise gender equality.

Secondly, this argument fails to take cognisance of the inherent right of women to be free from all forms of discrimination, and of their inalienable right to not have their rights and freedoms derogated from, whether or not industrialisation, growth in GDP or liberalised markets are realised. If women were to wait for the growth-premised model of development to be free of the “unfreedoms” that Sen makes reference to, this would be a great injustice.

It is also noteworthy that there are several industrialised countries where, despite continued growth over several years, equality of race, class and gender are still issues that rights advocates continue to press for.

Is Gender Equality a Prerequisite of Development?

This is essentially asking if development can be realised in the absence of gender equality. The answer to this question depends primarily on how development is defined.

Where it is defined narrowly, within the context of economic growth, then it may be rightly argued that development can indeed happen independently of the advancement of the empowerment of women, and in spite of persistent racial, class and gender inequalities. By way of example, many countries in the economic North continue to

grow economically and yet continue to grapple with issues relating to equality in different areas such as equal pay, reproductive rights, women's representation and so on.

Bennett reiterates this point:

[...] society as traditionally ordered, particularly Western “liberal” societies, establishes a mask – a facade – of gender-neutrality and equality. The tenets of liberalism – representative democratic government under the rule of law – create the impression that all citizens have equal rights and equal value in society. Once, however, the veneer of liberalism is scratched, it becomes apparent that behind liberalism there lies a vast reservoir of discrimination and inequality.¹⁹⁶

One such example is in the US where, in spite of its achievements in economic dominance, it only recently signed into law the *Lilly Ledbetter Fair Pay Act*, the equal-pay legislation that would not only ensure equal pay between male and female workers, but also expand the workers' rights to sue for compensation in the event this is not guaranteed.¹⁹⁷ In signing the bill, President Obama said: “It is fitting that with the very first bill I sign — the *Lilly Ledbetter Fair Pay Act* — we are upholding one of this nation's first principles: that we are all created equal and each deserve a chance to pursue our own version of happiness”.¹⁹⁸

It should be noted that, although it is dominant, this is a flawed model of development, and should be referred to simply as economic growth, or industrialisation, because true development cannot be said to have been realised where the needs and interests of a part, often the majority, of the population remain unaddressed and unheeded. In this case,

¹⁹⁶ Barnett, *supra* note 135 at 93.

¹⁹⁷ This was signed after many years of lobbying by Lilly Ledbetter who, as a supervisor for over 19 years, found she was paid less than her male counterparts.

¹⁹⁸ Sheryl Gay Stolberg, “Obama Signs Equal Pay Legislation” *The New York Times* (29 January 2009), online: The New York Times <http://www.nytimes.com/2009/01/30/us/politics/30ledbetter-web.html?_r=1>.

people-centred development has not been realised in any way and gender equality is not a prerequisite of this.

In the same breath, I would like to argue that, where development is broadly defined, as it was defined by Sen - "... a process of expanding the real freedom that people enjoy...the removal of the major sources of unfreedom such as poverty and poor economic opportunities including intolerance..."¹⁹⁹ - it is paramount that sources of racial, class and gender unfreedoms are addressed as prerequisites for development. A world where women and men are valued equally, where they enjoy the same status, and where they have equal access to resources and opportunities for realising their full potential, is long overdue. This would be a world where all human beings are born, *and treated* free, and are equal in dignity and rights.²⁰⁰ A world with gender equality would be a world where women's rights are respected, and realised because they are human rights - with no conditions to be met, or economic goals to be achieved. It is in this world that true development can be realised. I believe that, indeed, gender equality is a prerequisite for development, for "[e]quitable and sustainable development requires the positioning of gender equality and the empowerment of women as central to the design and implementation of national development strategies and related economic policies and financing."²⁰¹

An additional, alternate view of this is maintained by the OECD and the World Bank, whose ideologies stress that gender equality is important in realising development because ignoring gender inequalities reduces the impact of efficiency of development

¹⁹⁹ Sen, *Freedom*, *supra* note 48 at 3.

²⁰⁰ Universal Declaration of Human Rights, GA Res. 217 (III), UNGAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948), Article 1.

²⁰¹ United Nations Development Fund for Women (UNIFEM) & the UN Non-Governmental Liaison Service (NGLS), *supra* note 115 at 16.

policies. Their reference to development is evidently not to broad people-centred development, where sources of unfreedom are done away with, but rather to development as it is defined, within a neoliberal context.

In analysing the above scenarios in which the advancement of equality is seen to be a prerequisite to development, it is important to distinguish between realising it as a human right versus realising it because women are seen as functional essentials to achieve economic efficiency. One may ask “If the two divergent views realise the same result, does it matter *why* those who work towards realising gender equality do so, if the end prize - development - is the same?”

I suggest that the “why” matters. Under the World Bank/OECD approaches, economic growth constitutes the *end goal*, and matters more than the attainment of gender equality. One implication of this is that there is no attempt on the part of the World Bank or the OECD to advance the rights of women in ways that go beyond the urgency to realise economic goals. In other words, these organisations may decide on the gender equality objectives that are most useful or most important to realising their economic goals, and in so doing neglect all other integral parts of gender equality. In true neoliberal fashion, these institutions “become” the economic man - the rationally calculating individual who naturally seeks to maximise his welfare²⁰² by ordering his preferences (likes and dislikes) in a manner that is logically consistent so as to make choices that maximise his self-interest.²⁰³ As Antrobus states, “The market is not the best allocator of resources: the market does not prioritise human need, its priority is to maximise profit.”²⁰⁴ This

²⁰² Stein, *supra* note 146 at 60.

²⁰³ Drucilla Barker, “Neoclassical Economics” in Peterson & Lewis, *supra* note 152, 570 at 571.

²⁰⁴ Peggy Antrobus, “Challenging the Given” (Paper presented at the DAWN Africa Debates on Alternative Development Frameworks in Dakar, Senegal, 11 November 1994), *From There is No*

approach to gender equality within development is already visible. It can be seen, for example, in the importance assigned to education for women and girls as the universal remedy for all things related to gender inequality. A recently released World Bank report elucidates the above arguments:

Educating girls and women is critical to economic development. Research conducted in a variety of countries and regions has established that educating girls is one of the *most cost-effective ways of spurring development*. For developing countries in particular, women represent a previously *untapped source of human capital*, and countries that have adopted aggressive policies to promote gender equality in education can be expected to *reap higher social and economic benefits*.²⁰⁵ [emphasis added]

The report further stresses that “efforts need to be made to sustain progress in education goals and *to help women contribute* to economic growth”.²⁰⁶ [emphasis added] An examination of the 2007 sector-wide allocation of World Bank lending shows that, of the 8.2% of total lending that was allocated to the education sector, 43.8% had a gender sub-theme. This is in stark contrast with the total allocation of 39% that was made to economic infrastructure, where only 12.4% of this was related to a gender sub-theme.²⁰⁷

In concluding this chapter, I restate that in my view gender equality is a prerequisite for development. This relationship between gender and development is not, however, as it is prescribed by the Bank and the OECD. In my view the World Bank / OECD approach to advancing gender equality is patriarchal. In seeking to “chart a perfect development path”, the protagonists of neoliberalism pay attention to gender inequality, not because

Alternative to There Must Be an Alternative: Proceedings of the DAWN Africa Debates on Alternative Development Frameworks, Dakar 1994 (Cape Town: SADEP, 1997) at 34.

²⁰⁵ Mercy Tembon & Lucia Fort, eds., *Girls' Education in the 21st Century: Equality, Empowerment, and Growth* (Washington D.C.: World Bank, 2008) at xvii-xviii.

²⁰⁶ *Ibid.* at xix.

²⁰⁷ UNIFEM, *Progress*, *supra* note 34 online: United Nations Development Fund for Women <http://www.unifem.org/progress/2008/vs_aid6.html#vstats>.

women's rights are human rights, but because, they argue, these inequalities stand in the way of development as they envision it. This approach perpetuates the subordination of women. I suggest that, under this model, neither gender equality nor true development will be realised. Gender equality should be valued for itself, not simply because it increases output.²⁰⁸

In contrast with the World Bank / OECD view, my view of the role of gender equality within the development discourse is to urgently improve the status of women, because women are entitled as human beings to a "full" life²⁰⁹. Under this alternative approach, deliberate attention would be paid, and efforts would be made to realize the different rights enunciated in what Friedman calls the "women's human rights treaty".²¹⁰ The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) calls on relevant parties to help guarantee equal rights of women with men, whether in education, employment, access to healthcare, and other areas of economic, social and political life. The result of this would be that all of the matters that are foundational in tackling inequality would be addressed. Of course, this alternative form of development would be fundamentally different from that envisioned by the World Bank and the OECD. It would be a more comprehensive form of development, similar to that defined by Sen. It is on this basis and these lines of reasoning that laws and policies should be formulated.

²⁰⁸Bridget O'Laughlin, "A Bigger Piece of a Very Small Pie: Intrahousehold Resource Allocation and Poverty Reduction in Africa" in Cornwall, Harrison & Whitehead, *Contradictions*, *supra* note 46, 21 at 23.

²⁰⁹See Martha Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000).

²¹⁰Friedman, *supra* note 70 at 481. Friedman makes reference to CEDAW.

In the next chapter, I will undertake to ascertain the importance assigned to gender equality within the aid effectiveness theme and specifically the *Paris Declaration on Aid Effectiveness*

**CHAPTER 4 - FEMINIST LEGAL CRITIQUE OF THE PARTIES,
PROCESS AND PRIORITIES OF THE PARIS DECLARATION ON
AID EFFECTIVENESS**

*International organizations have gained varying degrees of policy autonomy. Acknowledging such freedom of manoeuvre is not enough, however. It is only one piece of the puzzle. It is yet another matter to stipulate the conditions under which an international organization will make use of such room for policy manoeuvre and, equally importantly, what policies it will try to promote.*²¹¹

Bob Reinalda & Bertjan Verbeek The Issue of Decision Making within International Organizations

*We need to understand how ideas are transmitted, contested, reassembled and negotiated at the points where policy decisions and implementations impinge upon the life circumstances and everyday lifeworlds of so-called “lay” or “non-expert” actors.*²¹²

Norman Long, Contesting Policy Ideas from Below

As seen in the first chapter, shortly after the conclusion of the Monterrey meeting, the conversation on FfD and aid effectiveness soon found a new convenor: the Development Assistance Committee of the OECD.²¹³ Even though it is not strictly regarded as a development institution, it had been seen, to a varying degree, to have played an

²¹¹ Bob Reinalda & Bertjan Verbeek, “The Issue of Decision Making within International Organizations” in Bob Reinalda & Bertjan Verbeek, eds., *Decision Making Within International Organizations* (Routledge: London, 2003) 9 at 10, online: MyiLibrary <<http://www.myilibrary.com/Browse/open.asp?ID=7772&loc=10>>.

²¹² Norman Long, in Bøås & McNeill, *supra* note 1, 24 at 26.

²¹³ See Martin Marcussen, “The Organization for Economic Cooperation and Development as Ideational Artist and Arbitrator: Reality or Dream?” in Reinalda & Verbeek, *supra* note 211, 90 at 100.

important role in the multilateral system,²¹⁴ and although its impact on development is hotly debated, few doubt the DAC's power and influence.²¹⁵ Driven by three principal motivations to disburse ODA – humanitarian support, enlightened self interest and to be in solidarity of all people with one another²¹⁶ – the DAC spent on average US\$55.8 billion between 1990 and 1999.²¹⁷

Different arguments may be made to explain why the FfD agenda moved from the UN to the OECD. Speaking on OECD practice more broadly, Marcussen points out that it has been a growing trend for the organisation to constantly monitor national and international political debates in order to catch new trends at an early stage and then gain authority by cultivating these trends.²¹⁸ Beyond this, however, the shift of the conversation on financing for development from the UN to the OECD was a reflection of a number of trends that began in the 1970s, when deliberate efforts were made to reduce the dominance and role of the UN in economic and trade processes, and to gradually elevate it to what it is seen as today – a norm-setting body in the area of human rights and humanitarian law.²¹⁹ With the bolstering of the World Bank and the IMF Washington Consensus agenda by the Reagan and Thatcher administrations, and the formation of the World Trade Organisation in 1995, the visibility and influence of the UN on the economic platform waned and became minimal. In light of this, it was not unforeseen

²¹⁴ Bøås & McNeill, in Bøås & McNeill, *supra* note 1 at 3.

²¹⁵ Morten Bøås & Desmond McNeill, "Introduction" in Bøås & McNeill, *supra* note 1, 1 at 1.

²¹⁶ OECD DAC, *Shaping the 21st Century: The Contribution of Development Co-operation*, (Paris: OECD, 1996) at 6, online: Organisation for Economic Cooperation and Development <http://www.oecd.org/dataoecd/23/35/2508761.pdf> [OECD DAC, *Shaping*]

²¹⁷ Statistics on aid disbursements by DAC members can be obtained from the OECD DAC website, online: Organisation for Economic Cooperation and Development <<http://stats.oecd.org/qwids/>>

²¹⁸ Marcussen, "The Organization for Economic Cooperation and Development as Ideational Artist and Arbitrator: Reality or Dream?" in Reinalda & Verbeek, *supra* note 211, 90 at 100.

²¹⁹ Kind thanks to Professor Gita Sen who explained this to me.

when the conversation about FfD moved from the UN to the OECD DAC, an organization whose membership comprises the same states at the helm of World Bank decision-making.

More specific to the financing for development regime, Wall notes that the UN process which resulted in the Monterrey meeting, and the adoption of the Monterrey Consensus, was led by the Group of 77²²⁰ (G77) of developing countries, which he says was often seen by developed countries as a pressure group, especially for increased donor aid.²²¹ In my view, it may very well be that, while developed countries were not opposed to increasing their aid commitments, they preferred to make these pledges within the OECD. The OECD provided them, as members, with a forum where they could delineate the modalities of their aid disbursements without undue pressure. This forum may be contrasted against the UN, where, first, all countries, regardless of economic status, have equal votes; and where, second, decision-makers from developed countries find themselves greatly outnumbered by their counterparts from developing countries.

William shares other reasons that could have necessitated the move of the aid effectiveness agenda to the OECD by stating:

...the new or revised control lever of the new aid modalities had to be such that it would enable donors to somewhat relax their grip on the ODA process, encourage their citizens out of the aid fatigue, which had come to engulf many tax payers in some OECD countries, and generate a sense of good faith among citizens and governments in partner countries. At the same time, donors needed a process to manage their fiduciary responsibility for citizens by ensuring

²²⁰ The Group of 77 is the largest intergovernmental organization of developing states in the United Nations, which provides the means for the countries of the South to articulate and promote their collective economic interests and enhance their joint negotiating capacity on all major international economic issues within the United Nations system, online: The Group of 77 <<http://www.g77.org/doc/>>.

²²¹ See Michael Collins, *supra* note 18 at 1305.

sufficient participation in the disbursement and monitoring of ODA flows.²²²

The DAC began dabbling in the aid effectiveness agenda soon after the UN Monterrey meeting, noting in a 2002 report:

Aid effectiveness is a vast subject comprising many crosscutting issues which the DAC is increasingly endeavouring to cover in its programme of work. To move forward on aid effectiveness, synergies must be found between members' individual efforts to improve the effectiveness of their programmes and the collective aid effectiveness agenda that the Committee supports.²²³

Following the conclusion of the Monterrey process in 2002, the OECD convened High-Level Dialogue Forums. The first High-Level Forum (HLF) on Harmonisation was held in Rome in 2003 and looked into matters relating to the harmonisation and alignment of aid. In 2004, the Marrakech Round Table on Managing for Development Results was held. Also convened by the OECD DAC, the meeting deliberated on the importance of managing finances for results if there was to be any measurable yield from development assistance. The most important forum, however, was the second High-Level Forum on Aid Effectiveness held in Paris in 2005.²²⁴ Present at the forum were ministers and senior officials representing 56 developing countries, and ministers and heads of multilateral and bilateral development institutions representing 35 donor countries and 27 multilateral agencies and several civil society organizations.²²⁵ The meeting sought to deliberate on

²²² *Supra* note 5 at 2.

²²³ OECD DAC, *Efforts and Policies of the Members of the Development Assistance Committee*, Development Co-operation Report, Vol. 4:1 (Paris: OECD, 2003) at 34. [OECD DAC, *Efforts*]

²²⁴ 2 March 2005.

²²⁵ According to Reality of Aid, along with other civil society organisations (CSOs) present at the High Level Forum they provided critical feedback on several issues being debated. Similarly, developing country representatives present provided (often critical) commentary during the discussions. The Declaration itself was, however, set out by the DAC as an expression of consensus at the meeting but was never brought to a vote, sign-on process or formal endorsement by CSOs. See The Reality of Aid “The Paris Declaration: What are the Donor Commitments to

how to best pursue and scale up efforts to make international aid more effective. The conclusion of the forum saw the adoption of the *Paris Declaration on Aid Effectiveness*, a new institutional framework designed with the intention of increasing the impact of aid “... in reducing poverty and inequality, increasing growth, building capacity and accelerating achievement of the MDGs”.²²⁶ The Paris HLF not only built on the gains of the Rome and Marrakech meetings, but also on documents and deliberations that had been ongoing for 10 years on how to improve aid effectiveness.²²⁷ Reality of Aid comments on this:

Important milestones along the way to the Paris Declaration in 2005 included the DAC’s 1996 *Shaping the 21st Century*, which established a narrow set of donor goals from commitments made at the UN Global Summits of the 1990s, the elaboration by the World Bank of its *Comprehensive Development Framework* in the late 1990s to better coordinate its policies and country-level programs, and the enhanced agreement for debt cancellation in 1999, linking debt relief to a country-specific *Poverty Reduction Strategy Paper (PRSP)*. Renewed interest in effective aid accelerated in the first part of the 21st century with the adoption by the members of the United Nations of the *Millennium Declaration on development partnerships* and the elaboration of the *Millennium Development Goals* (which turned out to be quite similar to the narrow set of goals in the DAC’s *Shaping the 21st Century*) and donor commitments to increase aid, particularly for Sub-Saharan Africa, at the 2002 UN *Financing for Development Conference* and subsequent G8 meetings.²²⁸

Improve Aid Effectiveness?” *Reality Check*, (January 2007). Online: Reality of Aid <http://www.realityofaid.org/downloads/RC_Jan07.zip> Reality of Aid is the only major north/south international non-governmental initiative focusing exclusively on analysis and lobbying for poverty eradication policies and practices in the international aid regime. It brings together more than 40 civil society networks working in the field of international cooperation in the 22 donor countries, in Asia, the Americas and Africa. The project builds on a 10-year track record of independent assessment of aid policies and practices, accompanied by constructive dialogue with policy makers at national and international levels.

²²⁶ Statement of Resolve, Para 2. *Paris Declaration on Aid Effectiveness: Ownership, Harmonisation, Alignment, Results and Mutual Accountability*. Online: Organisation for Economic Cooperation and Development <<http://www.oecd.org/dataoecd/11/41/34428351.pdf>>

²²⁷ “The Paris Declaration: What are the Donor Commitments to Improve Aid Effectiveness?” *Reality Check*, (January 2007) 7 at 7, online: The Reality of Aid <http://www.realityofaid.org/downloads/RC_Jan07.zip>.

²²⁸ *Ibid.*

THE PARIS DECLARATION ON AID EFFECTIVENESS

The Paris Declaration on Aid Effectiveness, often referred to as the Paris Declaration (Declaration), calls for reform in the way aid is managed between donor and partner countries by spelling out operational and specific mutual commitments that will improve the effectiveness of aid disbursement and use. The Declaration is set out in three main sections:

1. The Statement of Resolve set out in Section I;
2. The Partnership Commitments in Section II; and
3. The 12 Indicators of Progress listed in Section III.

Under the Statement of Resolve section, both donor and partner states make a commitment to take far-reaching and monitorable actions to reform the ways aid is managed and delivered. These actions are aimed at heightening the impact aid has in reducing poverty and inequality, increasing growth, building capacity and accelerating achievement of the MDGs. In the second section, both partner and donor states make a total of 56 commitments that are framed within the five principles of the declaration: ownership, alignment, harmonisation, mutual accountability and managing for results.²²⁹ These principles constitute the hallmark of the document. In the final section, 12 indicators of progress²³⁰ are provided, and these are to be measured globally and

²²⁹ Ownership calls on partner countries to exercise effective leadership regarding their development policies, and strategies to coordinate development actions; alignment sees donors make a commitment to base their overall support on partner countries' national development strategies, systems and procedures; harmonisation ensures that donors' actions are more harmonised, transparent and collectively effective; managing for results sees that there is the management of resources; and improved decision-making for results and mutual accountability is a pledge by donor and developing countries to be mutually accountable for development results.

²³⁰

1. Number of countries with national development strategies (including PRSS) that have clear strategic priorities linked to a medium-term expenditure framework and reflected in annual budgets.

nationally towards meeting set targets by 2010. Today, the Declaration is adhered to by approximately 30 donor countries, 90 recipient countries and 30 multilateral institutions.

Gender Equality and the Paris Declaration on Aid Effectiveness

Adequate time has passed, one would have thought, and enough intellectual energy expended, to make a gendered perspective in development analysis commonplace, and to shift policies and programmes in directions that promote gender equality. In fact, we are far from achieving the goal of gender equality. It continues to be viewed as an issue or area of “special interest”, whose incorporation into development analysis and programme interventions has been at best piecemeal. Unfortunately, most discussions among development economists and policymakers (both in governmental and nongovernmental forums) remain ungendered.²³¹

-
2. Number of partner countries that have procurement and public financial management systems that either (a) adhere to broadly accepted good practices or (b) have a reform programme in place to achieve these.
 3. Percent of aid flows to the government sector that is reported on partners’ national budgets.
 4. Percent of donor capacity-development support provided through coordinated programmes consistent with partners’ national development strategies.
 5. Percent of donors and of aid flows that use public financial management systems in partner countries, which either (a) adhere to broadly accepted good practices or (b) have a reform programme in place to achieve these.
 6. Percent of donors and of aid flows that use partner country procurement systems which either (a) adhere to broadly accepted good practices or (b) have a reform programme in place to achieve these.
 7. Number of parallel project implementation units (PIUs) per country.
 8. Percent of aid disbursements released according to agreed schedules in annual or multiyear frameworks.
 9. Percent of bilateral aid that is untied.
 10. Percent of aid provided as programme-based approaches.
 11. Number of countries with transparent and monitorable performance assessment frameworks to assess progress against (a) the national development strategies and (b) sector programmes.
 12. Number of partner countries that undertake mutual assessments of progress in implementing agreed commitments on aid effectiveness including those in this Declaration.

²³¹ Bina Agarwal, “Editorial: Re-Sounding the Alert – Gender, Resources and Community Action” (1997) 25:9 World Development 1373 at 1373.

In a marked departure from the UN Monterrey Consensus, which had paid specific and broad attention to gender equality,²³² the Declaration makes only a passing reference to gender equality and it is mentioned only once throughout the text of the Declaration.

More specifically, the reference to gender equality is situated in the second section, under the heading “Promoting a harmonised approach to environmental assessments”,²³³ where partner and donor states are reminded that “harmonisation efforts are also needed on other cross-cutting issues, such as gender equality and other thematic issues”²³⁴. This is in stark contrast to the more robust approach taken toward environmental issues, under this same heading. For example, paragraph 40, which calls for deepened progress in addressing implications of global environmental issues such as climate change, desertification and loss of biodiversity. This change in approach, in my view, is problematic.

Generally, a cross-cutting issue refers to a subject that is related to a development policy and/or methodology. This kind of issue is seen to carry more or less relevance for *all* of the various components or sub-programmes within the development policy and/or

²³² The Monterrey Consensus recognises that a holistic approach to the interconnected national, international and systemic challenges of financing for development - sustainable, gender-sensitive, people-centred development - in all parts of the globe is essential. Some of the commitments governments make include: to pursue appropriate policy and regulatory frameworks that will empower women; to reinforce gender budgeting policies; to invest in the microfinance sector, and provide credit for micro-, small and medium-sized enterprises in rural areas, that particularly benefit women.

²³³ *Paris Declaration on Aid Effectiveness: Ownership, Harmonisation, Alignment, Results and Mutual Accountability*, online: Organisation for Economic Cooperation and Development <<http://www.oecd.org/dataoecd/11/41/34428351.pdf>> paragraph 42.

²³⁴ *Ibid.*

methodology.²³⁵ When an issue is treated as a cross-cutting, this is contrasted with it being treated as a key component or sub-programme within development policy and/or methodology. Cross-cutting issues are seen as “issues that impact in more than [one] field...issues [that] require action in multiple fields and should thus be integrated into all areas of donor programmes and be addressed in all political dialogue on development”.²³⁶ In relation to the Paris Declaration, the meaning of what constitutes “cross-cutting” was best described in the remarks made by a representative from a regional bank during a preparatory meeting on the review of the Declaration who noted: “[I am] very uncomfortable with the term of cross-cutting issues...as soon as we define them as cross-cutting issues nobody takes care of them. Gender equality is the one which suffers the most, nobody is paying attention.”²³⁷

By treating gender equality as a cross-cutting issue, the Declaration raises numerous concerns within development and women’s rights circles, regarding the commitment among donors and governments to people-centered development. The treatment of gender equality as a cross-cutting issue is tantamount to using the policy approach of gender mainstreaming. Gender mainstreaming was established as a major global strategy for the promotion of gender equality in the Beijing Platform for Action from the Fourth

²³⁵ Norwegian People’s Aid, *NPA Development Dictionary*, s.v. “cross-cutting issues”, online: Norwegian People’s Aid Development Dictionary <http://www.npaid.org/www_English/World/Development_dictionary/A-F/>.

²³⁶ Online: European Commission <http://ec.europa.eu/development/policies/crosscutting_en.cfm>.

²³⁷ Cecilia Alemany, “Introduction: Women’s Rights Organizations’ Positions on Conditionalities and Aid Effectiveness” in Cecilia Alemany & Graciela Dede, eds., *Conditionalities Undermine the Right to Development: An Analysis based on a Women’s and Human Rights Perspective* (Toronto: Association for Women’s Rights in Development, 2008) 7 at 15.\

United Nations World Conference on Women in Beijing in 1995.²³⁸ It was defined by the

United Nations' Economic and Social Council: as

“..the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.”²³⁹

The mainstreaming strategy seeks to ensure that gender considerations are routinely included in the assessment of policy issues, options and impacts, along with other considerations such as socio-economic dimensions. It also routinely seeks increased gender equality as one of the policy outcomes, along with growth, efficiency, poverty reduction, and sustainability. This requires the inclusion of gender perspectives at several points in the policy process.²⁴⁰

Since 1995 varied efforts have been made towards ensuring that gender is mainstreamed at national and international levels with different measurements of success. Firstly, whether labeled as a cross-cutting issue, or an area to be mainstreamed, this policy approach to advancing gender equality has been widely misunderstood and misinterpreted at all levels of its application. Since it was endorsed and adopted by

²³⁸ Beijing Platform for Action, paragraphs 202 and 292.

²³⁹ United Nations Economic and Social Council (ECOSOC) Agreed Conclusions 1997/2.

²⁴⁰ Office of the Special Adviser on Gender Issues and Advancement of Women, *Gender Mainstreaming: An Overview* (New York: United Nations, 2002), online: United Nations <<http://www.un.org/womenwatch/osagi/pdf/e65237.pdf>> at 13.

countries and institutions in 1995, it has yet to be fully implemented anywhere.²⁴¹ Within the United Nations, for instance, there has been confusion, and difficulties have been encountered in its successful implementation.²⁴²

A second difficulty that has been encountered in implementing mainstreaming is the understanding that all staff should be responsible for its success.²⁴³ Mehra and Gupta point out that a “potentially contrary outcome of this understanding is that when mainstreaming is everyone’s task, it can become nobody’s responsibility.”²⁴⁴

Thirdly, institutional development experience shows that when gender equality is made a “cross-cutting” issue, no specific plans and programmes are made to advance it, and therefore no targets are designed to measure it. As Goetz and Sandler note: “Bureaucracies also do not easily tolerate cross-cutting issues – these pose a dilemma: who is in charge? Where are their budgets to be housed and how can they be assigned a budget line? Where do they fit in the command hierarchy?”²⁴⁵ Within the Paris Declaration, because governments and donors can only harmonise around clearly set out priorities,²⁴⁶ gender equality is left out of the planning framework of donors and governments.

²⁴¹ Rekha Mehra & Geeta Rao Gupta, “Gender Mainstreaming: Making It Happen” International Center for Research on Women” (2006) [unpublished] at 2.

²⁴² *Ibid.* at vi.

²⁴³ *Supra* note 241 at 5.

²⁴⁴ *Ibid.*

²⁴⁵ Anne-Marie Goetz & Joanne Sandler, “SWApping Gender: From Cross-Cutting Obscurity to Sectoral Security?” in Cornwall, Harrison & Whitehead, *Contradictions*, *supra* note 46, 161 at 167.

²⁴⁶ This is the Outcome Document from a workshop themed “Development Effectiveness in Practice: Applying the Paris Declaration to Advancing Gender Equality, Environmental Sustainability and Human Rights” held in Dublin, Ireland, April 2007 at 11, online: Organisation for Economic Cooperation and Development <<http://www.oecd.org/dataoecd/30/20/38933324.pdf>>.

It is important to note that the advancement of gender equality threatens the power relations of men and women within society. It therefore follows that in seeking to apply gender mainstreaming to advance gender equality most institutions as gatekeepers of power will define and dictate the extent of its application. In briefly addressing this, Prügl and Lustgarten mention that international organisations have been reluctant, and in some instances have shown indirect and direct resistance to gender mainstreaming. They note that these organisations are “sites of power defining identities and exclusions, rights and obligations and creating categorical differences to place people in a hierarchical power structure.”²⁴⁷

On the face of it, gender mainstreaming is fairly easy. At its simplest, it says that the concerns of both women and men should be taken into account and kept in mind when making policy decisions. Further, if implemented, in my view, it can be a useful tool towards the advancement of gender equality. In policy analysis and development, such as in the case of the Paris Declaration, mainstreaming has the potential to “draw attention to the impact of policy on people and explore how this impact could vary for women and men, given gender differences and inequalities.”²⁴⁸ Gender Mainstreaming, however, can be extremely complex and difficult particularly when power structures have to be challenged and broken down to realise this “simple” goal. Successful gender mainstreaming will require that one closely looks into organisational norms and culture to

²⁴⁷ Prügl, Elizabeth and Audrey Lustgarten “Mainstreaming Gender in International Organisations” in Jaquette & Summerfield, *supra* note 181, 53 at 54.

²⁴⁸ United Nations, *Gender Mainstreaming: An Overview* (New York: UNIFEM, 2002) at 13.

deconstruct gender inequality.²⁴⁹ In light of this, what are the alternatives to gender as a cross-cutting theme? This is a question that feminist scholars and activists are presently grappling with. Some hold the view that “although gender mainstreaming is a complex and lengthy process, it can be done.”²⁵⁰ Others such as Prügl, and Lustgarten are more cautious stating: “Feminists [must] not see gender mainstreaming as the be-all and end-all but complement institutional with movement strategies.”²⁵¹ A cursory glance at the European Union shows that the EU policy framework for promoting gender equality pursues a twin-track approach. First, it takes measures specifically designed to tackle gender inequalities, second, more widely, it aims to incorporate gender issues into all aspects of development policy (“mainstreaming”).²⁵² The Declaration ought to have made gender equality as central issue, as opposed to a cross-cutting issue. During the Dublin + 1 Workshop,²⁵³ it was suggested that the use of the term “cross-cutting issue” should be replaced by “policy priority issue” or “central-goals to development”, as the continued use of the term “cross-cutting” was furthering its marginalisation.²⁵⁴ The sentiments of some observers on the Declaration with respect to its commitment to gender equality are clear:

²⁴⁹ Senorina Wendoh & Tina Wallace "Rethinking Gender Mainstreaming in African NGOs and Communities" (2005). 13.2 Gender and Development 70 at 74.

²⁵⁰ *Ibid.* at 5.

²⁵¹ Prügl, Elizabeth and Audrey Lustgarten “Mainstreaming Gender in International Organisations” in Jaquette & Summerfield, *supra* note 181, 53 at 69.

²⁵² The European Commission Website, online European Commission <http://ec.europa.eu/development/policies/crosscutting/genderequ_en.cfm>

²⁵³ This was a workshop organized by the Network on Gender Equality (GENDERNET) a forum that brings together gender experts from development co-operation agencies. The workshop was convened to discuss the so-called cross-cutting issues, and was held in Dublin in 2007.

²⁵⁴ DAWN/AWID/WIDE/FEMNET “Brief Issue Paper on Country Ownership and Gender Equality” (paper presented for the preparation of the round table 1, 3rd High Level Forum, Accra 2008. on democratic ownership, December 17, 2007) at 1, online: WOMNET <http://fnws.de/content/2008/Brief_Issue_Paper_Ownership1.pdf>.

...[i]ts language that at best can be described as weak. This clearly indicates a lack of political commitment from donors and governments to make gender equality a priority as one of the central goals of development.²⁵⁵

It is also noteworthy that none of the Declaration's 12 measurable indicators of progress make any reference to human development issues such as gender equality and social inclusion. This omission seems to echo the conventional assumption that if the right institutional mechanisms are in place to support economic growth, the benefits will automatically trickle down to different population segments, although the record of this model has been mixed.²⁵⁶ Williams' view of the matter is plain: "It cannot be automatically assumed that donors' concerns with good governance and financial accountability will have a benign impact on social goods and gender equality. In fact, the[se] new modalities, in and of themselves are not gender-neutral or socially friendly, and have to be engendered."²⁵⁷

The negligible interest afforded to the advancement of gender equality within the Declaration was a setback to the assurance of the advancement of women's rights, and came as a shock to the women's movement. Why was gender equality left out of the debate and on the sidelines?²⁵⁸ Why is it that, on numerous occasions, international processes have repeatedly failed to guarantee their support for the advancement of racial, class and gender equality? Why do reports indicate that, between 1921 and 2005, only 48 international instruments have landmark resolutions and commitments to gender equality,

²⁵⁵Cecilia Alemany et al., "Implementing the Paris Declaration: Implications for the Promotion of Women's Rights and Gender Equality" (Paper commissioned by the Canadian Council for International Cooperation and developed by AWID & WIDE, January 2008).

²⁵⁶ United Nations Non-Governmental Liaison Service, *supra* note 30 at 10.

²⁵⁷ *Supra* note 5 at 6.

²⁵⁸ Cecilia Alemany, "Introduction: Women's Rights Organizations' Positions on Conditionalities and Aid Effectiveness" in Alemany & Dede *supra* note 237, 7 at 12.

and only six of these set out time-bound, measurable targets?²⁵⁹ In attempting to engage with these questions, I will seek to apply international feminist legal thinking to offer a critique of the parties, priorities and process of the Paris Declaration within three specific areas of interest. The three areas, which have been identified as important when analysing the characteristics of an organisation, are its internal structure, representation, and culture.²⁶⁰ In this context, the characteristics of the OECD DAC, the organization behind the Paris Declaration, are central. I will offer this feminist critique by asking the two woman questions I identified in Chapter 2. These are:

1. What assumptions were/are made with respect to the parties, priorities and process of the aid effectiveness regime?
2. Were gender equality concerns left out of consideration in determining the parties, priorities and process of the aid effectiveness regime?

As Mkandawire argues “...one must go beyond the rhetoric of agencies to also understand the agenda of different institutions and see how these influence various groups and countries according to gender, race, ethnicity etc.”²⁶¹

²⁵⁹ UNIFEM, *Progress*, *supra* note 34 at <http://www.unifem.org/progress/2008/vs_aid.html>. The resolutions with measurable targets are: United Nations Millennium Declaration [2000]; International Conference on Population and Development (ICPD) Programme of Action [1994]; Beijing Declaration and Platform for Action [1995]; Solemn Declaration of Gender Equality in Africa [2004]; Jakarta Declaration and Plan of Action for the Advancement of Women in Asia and the Pacific [1994]; The Vienna Declaration and Programme of Action [1993].

²⁶⁰ Masujima calls these three areas the organisational constraints. See Ken Masujima, “‘Good Governance’ and the Development Assistance Committee: Ideas and Organizational Constraints” in Bøås & McNeill, *supra* note 1, 151 at 154.

²⁶¹ Thandika Mkandawire, “From There is no Alternative (TINA) to There Must be an Alternative (TheMBA)” (Paper presented at the DAWN Africa Debates on Alternative Development Frameworks in Dakar, Senegal, 11 November 1994), *From There is No Alternative to There Must Be an Alternative: Proceedings of the DAWN Africa Debates on Alternative Development Frameworks, Dakar 1994* (Cape Town: SADEP, 1997) at 8.

CRITIQUE OF THE DEVELOPMENT ASSISTANCE COMMITTEE (DAC)

Internal Structure

The internal structure of an organization, and particularly its staffing, is very important, because it greatly influences how a plethora of issues and thematic areas such as gender equality, human rights, climate change, economics and others are defined and integrated into the *modus operandi* of an organisation. Over the years, experience within the development context has shown that development cooperation has been very slow to make gender equality a priority. Although “most OECD DAC members have gender equality policies for ODA; the record on the allocation of sufficient staff and resources is more mixed.”²⁶² The DAC secretariat, for example, is a relatively small team composed primarily of economists,²⁶³ something a DAC head of secretariat once admitted had an impact on how ideas were treated within DAC. Speaking to Masujima, he noted, “...aid people mostly trained in economics confronted for the first time the question of politics [issues of participatory development and good governance] at the beginning of the 1990s and revealed themselves to be unequipped to deal with it”.²⁶⁴ Another observer points out that, in general, economists are “...trained to high standards of precision in thought, and with methodologies purporting to be scientific and value-free ... and find it difficult to take aboard the perspectives and approaches of other disciplines.”²⁶⁵ The importance of having economists within DAC is not in question; the emphasis of economics, and the often narrow priorities of economists, however, do present a hurdle for the advancement of women’s rights through policy, especially where a narrow view of economics alone

²⁶² Women’s Working Group on Financing for Development quoted in United Nations Non-Governmental Liaison Service, *supra* note 30 at 11 Box 1.4.

²⁶³ Ken Masujima, “‘Good Governance’ and the Development Assistance Committee: Ideas and Organizational Constraints” in Bøås & McNeill, *supra* note 1,151 at 154.

²⁶⁴ *Ibid.* at 161.

²⁶⁵ Morten Bøås & Desmond McNeill, “Foreword” in Bøås & McNeill, *supra* note 1, x at x.

cannot be relied on to deliver the solution that is so desired - equality. As we have seen, the application of neoliberal economics prioritises national market growth and GDP increases. In answering the first woman question, it seems clear that the assumption made by the DAC economists, within the DAC internal structure more generally, is that the benefits the market has to offer will trickle down for the eventual benefit of all. This is however untrue. Within the neoliberal market framework, benefits do not trickle down. The different development approaches that have been implemented in developed countries have not advanced the status of women through the trickle down of resources, as Momsen notes:

Prior to 1970, when Esther Boserup published her landmark book on women and development, it was thought that the development process affected men and women in the same way. Productivity was equated with the cash economy and so most of women's work was ignored. When it became apparent that economic development did not automatically eradicate poverty through trickle-down effects, the problems of distribution and equality of benefits to the various segments of the population became of major importance in development theory.²⁶⁶

Further, Benería is quick to note that "...development is much more than increases in GDP and the growth of markets; it's about the fulfilment of human potential in all its dimensions – for each and everyone."²⁶⁷

In my view, additional assumptions that could have been made, not necessarily by the DAC secretariat, but rather about the secretariat, by other actors,²⁶⁸ that in some way resulted in the marginal treatment of gender equality within the Declaration include" First is the assumption that the secretariat had any intention of including gender equality

²⁶⁶ *Supra* note 62 at 11.

²⁶⁷ *Supra* note 27 at 168.

²⁶⁸ Other parties that could have made these assumptions about the DAC secretariat include member states, civil society organisations and multilateral organisations that were part of the HLF that led up to the Paris Meeting.

within the document. Second, it is plausible that, at the onset of the conversations on aid effectiveness, there existed an underlying assumption that the DAC technocrats were cognisant of the importance of advancing gender equality as a human right at all levels, and within all processes - especially development processes - including the drafting and passing of the Paris Declaration.

Further looking at the internal structure, the second woman question asks, “Were gender equality concerns considered?” I am of the view that, in the absence of access to documents from and by the DAC secretariat, especially those the draft working papers of the Paris Declaration, it is difficult to determine with any certainty whether or not gender equality was paid any heed. Strassman asks a fundamental question: to whom is economic thought accountable and how can it help human lives?²⁶⁹ Accordingly, I suggest that, where the internal structure of a key institution such as the OECD DAC is not diverse in its ability to address the needs of a more diverse constituency, this will be reflected within thematic prioritisation and policy formulation. Weak internal institutional capacity may have been one of the gaps that contributed to the dismal regard for equality within the Paris Declaration.

Representation

Representation in this case refers to the member states whose bilateral donor organizations are delegates of DAC. It also refers to the specific government ministries that host DAC within these states. At the first level, DAC is formed by major multilateral and bilateral donors such as the Canadian International Development Agency (CIDA), the Swedish International Development Cooperation Agency (SIDA), the United States Agency for International Development (USAID), and the United Kingdom’s Department

²⁶⁹ Diana Strassman “Feminist Economics” in Peterson & Lewis, *supra* note 152, 360 at 360.

for International Development (DFID). The individual policies and ideologies of these states play a prominent role in shaping agendas, defining positions, and implementing objectives within DAC. At the second level, DAC is customarily housed under a government ministry such as foreign affairs or finance. This location will, to a certain degree, also influence the position that each member state will take on a particular issue, such as the one we are considering in this thesis. Masujima notes that “the fact that the United States is represented by USAID (and not by the State Department) has had an extremely important impact on the positions taken by the US, and hence the positions taken by DAC as a whole.”²⁷⁰

Against this backdrop, it is an assumption that not only do DAC members hold a common view of the importance of advancing gender equality and the rights of women (whether as a priority or not), but they also agree on the process, and on what the relationship between development and gender equality should entail. Because it cannot be ascertained that their view of these issues is similar, it is likely this would have seen a varied approach as to how to address gender equality within the Declaration. Milner illustrates members’ diversity in opinion, and world view by stating:

The OECD countries are a diverse set of principals with regard to foreign aid provision. They have distinct preferences regarding the amount, type, and distributive criteria for aid giving. The Scandinavian countries donate much larger portions of their GDPs to aid and give this aid to a wide variety of countries with limited attention to their international political alliances; in contrast, the United States gives a smaller portion of its wealth to aid and usually targets countries that are political allies.²⁷¹

²⁷⁰ Ken Masujima, “‘Good Governance’ and the Development Assistance Committee: Ideas and Organizational Constraints” in Bøås & McNeill, *supra* note 1, 151 at 154.

²⁷¹ Helen V. Milner, “Why Multilateralism? Foreign Aid and Domestic Principal-Agent Problems” in Darren G. Hawkins et al., eds., *Delegation and Agency in International Organisations* (Cambridge: Cambridge University Press, 2006) 107 at 112.

To reiterate this, Sweden and Norway gave aid equivalent to 0.93 and 0.95 percent of their 2007 GDPs respectively.²⁷² In 2007, the United States gave only 0.16 percent of its GDP. The top three recipients of US aid were Iraq, Afghanistan and Sudan; the top three for Sweden were Iraq, Tanzania and Mozambique; and the top three for Norway were Sudan, Palestine and Tanzania. In addition, statistics show that “overall, the OECD-DAC’s gender equality policy marker for ODA produces widely variable results—identifying from 1% to 82% of aid from individual countries as focused on gender equality.”²⁷³ Consequently, I suggest that, in trying to balance the diverse positions of its members on a range of issues, it is likely that gender equality, as a theme of development, which competes against the core aims of the OECD,²⁷⁴ would have been, and would likely today still be sacrificed at the altar of compromise and concession. This answers the second woman question about whether gender equality considerations were made in determining the priorities of the Declaration. I further suggest that, if all the members were unanimous in their commitment to making gender equality central to development, this would already be a reality. The 2005 DAC report on members’ policy and practice further highlights this varying degree of commitment noting that donors such as Ireland, Japan, Spain and Switzerland have taken up gender equality as a critical part of their development assistance programmes. At the same time a number of agencies which were previously “first wave” leaders on gender equality have, like the UK, recognised that even though they may have maintained a high level of political

²⁷² OECD, “Net Official Development Assistance in 2008” (2009). Online: Organisation for Economic Cooperation and Development <<http://www.oecd.org/dataoecd/48/34/42459170.pdf>>

²⁷³ United Nations Non-Governmental Liaison Service, *supra* note 30 at 11.

²⁷⁴ These include the achievement of the highest level of sustainable economic growth and employment in member countries, and the expansion of world trade. See Convention of the OECD, articles 1, 2.

commitment in global fora, the focus of their programmes had become dissipated or diluted and that their institutional capacity was weak, both at head office and in the field. Canada, Germany, Norway and Sweden are amongst those seriously and critically re-examining their approach with a view to reinvigorating and revitalising their efforts.²⁷⁵

Culture

The culture of an organization is key to defining its norms and values. Like societal culture, organisational culture is usually resistant to change. For example, many times deeply entrenched cultural mores – such as sexism and patriarchy – prove strongly resistant to change.²⁷⁶ A close examination of the interplay between the advancement of gender equality and women's rights, on the one hand, and international organisations, on the other, reveals a trend characterised by a cautious and noncommittal engagement by international organisations with gender equality. Pease notes:

The international relations discipline has traditionally been populated by male scholars studying issues that have historically concerned men – war, politics, economics, and the like. Discussion of women's roles, contributions, and issues are rare, and tend to be trivialized because the female experience is not as valued as the male experience.²⁷⁷

Bøås and McNeil have attempted to understand why particular ideas are taken up by multilateral organisations and why others are not. Using similar arguments, the scant and often absent engagement by international organisations with gender equality can be

²⁷⁵OECD DAC, *Efforts*, *supra* note 223 at 29-30.

²⁷⁶Barnett, *supra* note 135 at 38.

²⁷⁷Pease, *supra* note 75 at 86.

interrogated. In studying multilateral institutions and the exercise of what Gramsci calls hegemonic power,²⁷⁸ Bøås and McNeil note as follows:

We suggest that powerful states (notably the USA), powerful organizations (such as the IMF) and even, perhaps, powerful disciplines (economics) exercise their power largely by “framing”: which serves to limit the power of potentially radical ideas to achieve change.²⁷⁹

They explain

[...] the exercise of framing is composed of two parts: one, drawing attention to a specific issue (such as the environment or urban unemployment); and two, determining how such an issue is viewed. The result is that a successful framing exercise will both cause an issue to be seen by those that matter, and ensure that they see it in a specific way.²⁸⁰

An example they give of this is the growth of the notion of good governance within development discourse in international organisations including the IMF and the World Bank. This argument suffices to explain the skeletal reference to gender equality in the Declaration and other OECD documents that preceded it.²⁸¹ The women’s movement has for several years used its agency at national and international levels to persistently advocate for the advancement of women’s rights and the realisation of gender equality in all areas. The urgency to realise the rights of all in society, and the gains to a society where women and men are given equal opportunity, have been the text and subtext, the stanza and refrain of many meetings where women’s advocates have converged. To state that any one person within an international organisation is unaware of the need to advance the rights of women would be tantamount to stating that gender equality has

²⁷⁸ The general question involved in hegemony is the nature of power. See Morten Bøås & Desmond McNeill, “Ideas and Institutions: Who is Framing What?” in Bøås & McNeill, *supra* note 1, 206 at 223.

²⁷⁹ Morten Bøås & Desmond McNeill, “Introduction” in Bøås & McNeill, *supra* note 1 at 1.

²⁸⁰ *Ibid.*

²⁸¹ These are The Declaration adopted at the 2003 High Level Forum on Harmonisation in Rome and the core Principles put forward at the 2004 Marrakech Roundtable on Managing for Development Results.

been realised in *all* countries around the world; both statements are preposterous. As gender equality is not given the attention it deserves, it can be persuasively argued that it is a casualty of the culture of framing exercised within international organisations, such as the OECD, where it is seen as an issue that deserves cursory mention, never attention, and certainly not action.

Different suggestions may be given to explain why framing occurs; one may be that actors, such as in this case may be trying to fit ideas within defined neoliberal contexts and consequently maintain the *status quo*. This is evident in the continuing critique of the parties, process, and priorities of the Declaration, as follows:

First, the exclusion of women from decision-making tables has remained a persistent barrier to their engagement with pertinent issues at national and international levels. Goetz sums up their absence by stating they are merely "...seen as instruments to achieve a broader development goal, not welcomed to public office as a matter of their democratic and employment rights".²⁸² Chinkin, Wright and Charlesworth point out that a consistent feminist concern in international law has been to redress the exclusion of women from international positions.²⁸³ As functional extensions of states, the structure of international organisations generally reflects a male perspective, and within these organisations the invisibility of women is striking, as they are either unrepresented or under-represented in global decision-making processes.²⁸⁴ This exclusion has not only

²⁸² Anne Marie Goetz, "Political Cleaners: Women as the New Anti-Corruption Force?" in Andrea Cornwall, Elizabeth Harrison & Ann Whitehead, eds., *Gender Myths and Feminist Fables: The Struggle for Interpretive Power in Gender and Development* (Massachusetts: Blackwell Publishing, 2008) 85 at 85. [Cornwall, Harrison & Whitehead, *Myths*].

²⁸³ Christine Chinkin, Shelley Wright & Hilary Charlesworth, "Feminist Approaches to International Law: Reflections from Another Century" in Buss & Manji, *supra* note 37, 17 at 19. [Chinkin, Wright & Charlesworth, "Reflections"].

²⁸⁴ Charlesworth, Chinkin & Wright, "Approaches", *supra* note 53, 613 at 621-622.

been limited to individuals, but also to women's organizations and women's units within international organizations.

One of the ills that afflicts UNIFEM and other gender equality entities...is that we are often excluded from decision-making venues that we are set-up to influence. UNIFEM for instance cannot participate as an equal among UN organisations in the major cross-sectoral and interagency committees at the UN which, among other things, set out the priorities for humanitarian assistance, for development or environmental policy, for peace and security.²⁸⁵

Speaking on the aid effectiveness process specifically, Sandler offers clear insights on how we can answer the second woman question by noting, "The aid effectiveness agenda is a good case study to illustrate that people concerned with gender equality rarely sit at the tables where overarching decisions are made about policy and practice that affect millions of people."²⁸⁶ In the lead-up to the Paris High Level Meeting, the voices of the women as a constituency were absent, and they continued to be throughout the entire process. In Paris, less than 20 civil society organisations which had limited participation, were present at the forum, none of which was a women's rights organization.²⁸⁷ It is evident that gender equality concerns were not considered in determining the process of

²⁸⁵ Anne-Marie Goetz & Joanne Sandler, "SWapping Gender: From Cross-Cutting Obscurity to Sectoral Security?" in Cornwall, Harrison & Whitehead, *Contradictions*, *supra* note 46, 161 at 164.

²⁸⁶ OECD DAC, *DAC Network on Gender Equality: Summary Record of the Third Meeting of the DAC Network on Gender Equality*, Doc. No. DCD/DAC/GEN/M (2005)1/PROV(2005) at 6. Joanne Sandler, Deputy Director for Programmes, United Nations Development Fund for Women – UNIFEM, spoke at the third meeting of the DAC network on gender equality.

²⁸⁷ Alemany, in Alemany & Dede *supra* note 237, 7 at 9. The 15 Civil Society Organisations present at the High Level Forum, Paris 2006 were: Africa Humanitarian Action, AFRODAD, Bill and Melinda Gates Foundation, Canadian Council for International Cooperation (CCIC), Comité Catholique contre la Faim et pour le Développement (CCFD), Coopération Internationale pour le Développement et la Solidarité (CIDSE), Comisión Económica (Nicaragua), ENDA Tiers Monde, EURODAD, International Union for Conservation of Nature and Natural Resources (IUCN), Japan NGO Center for International Cooperation (JANIC), Reality of Aid Network, Tanzania Social and Economic Trust (TASOET), UK Aid Network. Online: Organisation for Economic Cooperation and Development
<http://www.oecd.org/document/22/0,2340,en_2649_3236398_36074966_1_1_1_1,00.html>

this meeting. It is imperative to note that the emphasis on having women as part of the process in different capacities does not in any way suggest that an “add and stir” approach be used to address the absence of women’s representation in international processes, Rai comments on the opportunity for women to participate transformatively within decision-making:

Seeing women as agents has been an important development in feminist work. In order to do so, feminist scholars and activists have moved away from viewing women as victims in need of rescue. Rather they have presented women as actors in struggles against their oppressions. In so doing, they have also moved away from “adding on” women to male dominated institutions, policies and frameworks of analyses, and have explored the underlying biases of socio-economic contexts and political institutions.²⁸⁸

Another concern with respect to representation is that it is increasingly evident that the concept of national or regional equity has been preferred to gender equality representation within international organisations.²⁸⁹ An underlying assumption is that, as long as the concerns of all regions can be addressed by ensuring regional representation, this is sufficient and is tantamount to the representation of all concerns for all persons. Assumptions such as this result in the unequal and inequitable representation of women within these bodies, resulting in instances where there are no women representatives such as is illustrated by the unfortunate fact that there are currently no women judges in the International Tribunal on the Law of the Sea, which has 21 seats, and the International Court of Justice, which has 15 seats. The inclusion of women’s voices is needed to

²⁸⁸ *Supra* note 68 at 3.

²⁸⁹ Chinkin, Wright & Charlesworth, “Reflections”, *supra* note 283 at 21.

challenge the objectivity and authority of male-designed spaces,²⁹⁰ and serious thought needs to be given to rethinking the gender divide in international institutions.²⁹¹

Second, the view of DAC on financing gender equality has been that it should be addressed at the local level. This was made clear in a DAC report released in 2005 that stated:

How can we make the best use of increases in aid and ensure that there is real progress on women's rights and development? We need to become more effective in partner countries at placing gender equality and women's empowerment firmly on the *local agenda*...in an era of increased budget support and use of programmatic approaches, it is critically important to support people in partner countries to put these issues high on the political and policy agendas of politicians, parliaments, civil society and government agencies.²⁹² [emphasis added]

This position was reiterated by the DAC chairperson Richard Manning at the third meeting of the DAC Network on Gender Equality, where he emphasised "... (the) need to become more effective in partner countries at placing gender equality and women's empowerment firmly on the local agenda."²⁹³ While the local level has been an important site for women activists to agitate for the rights of women, and to expose the limitations of mainstream human rights approaches, it also has a "strong association with the liberal concept of the "private sphere".²⁹⁴ The public sphere, the male world,²⁹⁵ has been the preserve of international law and international processes, and as Charlesworth and Chinkin note, "...while this public space formally removes private concerns from its

²⁹⁰ Charlesworth, Chinkin & Wright, "Approaches", *supra* note 53, 613 at 615.

²⁹¹ Chinkin, Wright & Charlesworth, "Reflections", *supra* note 283 at 21.

²⁹² OECD DAC, *Efforts*, *supra* note 223 at 30.

²⁹³ *Supra* note 286 at 7.

²⁹⁴ Anne Stewart, "Juridifying Gender Justice: From Global Rights to Local Justice" in John Hatchard & Amanda Perry-Kessaris, eds., *Law and Development: Facing Complexity in the 21st Century - Essays in Honour of Peter Slinn* (London: Cavendish Publishing Limited, 2003) 36-54 at 38.

²⁹⁵ *Ibid.* at 38.

sphere, the international legal system nevertheless strongly influences them. One form of influence is the fact that private issues are left to national, rather than international regulation”.²⁹⁶ This reinforces the view that long-term male domination of all bodies wielding political power nationally and internationally means that issues traditionally of concern to men are seen as general human concerns, while “women’s concerns” are relegated to a special limited category.²⁹⁷ In this case, Manning relegates gender equality to “the local”, or in other words, to the margins. This argument would support the reasoning behind making gender equality a cross-cutting issue as opposed to a core issue within the Paris Declaration, thereby answering the question on whether gender equality concerns were considered. As we have seen, the Paris Declaration did not substantially consider gender equality, and its mention within the document does not in any way signify a triumph or breakthrough for women. An assumption that may have supported the relegation of the empowerment of women to the local level was the presupposition that national governments have greater interest in and attribute greater importance to the advancement of women’s rights and gender equality than do international institutions such as DAC. Culpeper is clear: “...problems such as overpopulation, global warming and environmental collapse, mass poverty[...] can only become more common in the absence of a rule-based, rule-abiding, and cooperative global community”, and this community, further, “requires viable and effective institutions to act on behalf of the common interest”.²⁹⁸ Gender inequality is prevalent in all parts of the world, and it is one such problem that does require effective institutions such as the DAC to address it. De-

²⁹⁶ Hilary Charlesworth & Christie Chinkin, *“The Boundaries of International Law: A Feminist Analysis”* (Manchester: Manchester University Press, 2000) at 56–57.

²⁹⁷ Charlesworth, Chinkin & Wright, “Approaches”, *supra* note 53, 613 at 625.

²⁹⁸ Roy Culpeper, *Titans or Behemoths?* (Boulder: Lynne Rienner, 1997) at 3.

escalating it, therefore, from the international to the local sphere is tantamount to ignoring the problem of inequality and mass poverty. “Achieving gender equality requires transformative strategies rather than patchwork responses.”²⁹⁹

Another international shortcoming which is noteworthy, and which is linked to the argument that framing of gender equality takes place, is what I call the “culture of rhetoric”.

Simply put, in spite of the commitments they make to advance gender equality, international organisations do not back their promises with action. An assumption is made by developing countries in the context of international development talks: that the parties that make pledges and commitments are willing to uphold and keep their pledges and commitments. Commitments to fund equality, though often elaborate, have unfortunately been empty words which have remained unfulfilled.

As some observers note, “...organisations have a rhetoric on gender equality but actually fall short when it comes to prioritising programmes as well as funding for gender.”³⁰⁰

One reason for a scenario such as this is the failure of developed states to meet their ODA targets of 0.7% of GDP, and 0.1 - 0.2% of GDP for least developing countries. Aid, however, is political³⁰¹ and it may be argued that, even if countries did meet their set

²⁹⁹ United Nations Development Fund for Women (UNIFEM) & the UN Non-Governmental Liaison Service (NGLS), *supra* note 115 at 16.

³⁰⁰ Gigi Fransisco, speaking on “An Agency for Women in the UN, At Last!” Paper presented at the Beijing +15 Asia Pacific Non Governmental Organisation Forum held at Miriam College, Manila, Philippines, 23 October 2009), online podcast: Development Alternatives with Women for a New Era <http://www.dawnnet.org/uploads/File/Gigi_APNGOForum%20Oct%202009-Podcast.mp3>.

³⁰¹ Milner writes on the quality of aid within developed states, noting, “In general, the public by a large majority in most countries prefers aid that is humanitarian to aid that is political...for the executive, or course, the political nature of aid is what makes it a foreign policy tool: hence the executive is not likely to appreciate a purely humanitarian approach to aid.” Milner, *supra* note 271, 107 at 118.

target of 0.7% of GDP, as five countries already have,³⁰² there is no guarantee that the money would be equitably used to support the advancement of women's rights. As it has been observed, ODA actually often reflects political or economic considerations. For example, even though there are about 50 countries categorized as "least developed", meaning they are most in need of external resources to boost development financing, in 2006 only 15 recipient countries received 60% of bilateral aid.³⁰³ In addition, statistics show that from 2001 to 2005, out of US\$20 billion in aid directed to specific development sectors, only 25% had gender equality as a principle or secondary objective.³⁰⁴

In her paper entitled "Rhetoric and Reality: World Bank and CIDA Gender Policies",³⁰⁵ Hales brings to the fore the wonderful picture the World Bank paints of the world where living standards are higher than ever before, humanity is progressing, and situations for women are improving. Yet, in reality, the impoverishment of hundreds of millions of people throughout the world continues, disparities between the rich and the poor continue to grow, and despite increased awareness of the status and rights of women due to the global efforts of feminists and women's rights groups, women overwhelmingly are the poorest of the poor.³⁰⁶ Hales proceeds to ask why this contradiction exists, and if the development and gender policies of international development agencies simply amount to

³⁰² As at the end of 2007, the only countries to exceed the United Nations target of 0.7% of GDP were Denmark, Luxembourg, the Netherlands, Norway and Sweden. OECD DAC, News Release, "Debt Relief is Down: Other ODA Rises Slightly" (4 April 2008), online: Organisation for Economic Cooperation and Development <http://www.oecd.org/document/8/0,3343,en_2649_33721_40381960_1_1_1_1,00.html>.

³⁰³ United Nations Non-Governmental Liaison Service, *supra* note 30 at 11.

³⁰⁴ UNIFEM, *Progress*, *supra* note 34 <http://www.unifem.org/progress/2008/vs_aid.html>

³⁰⁵ Jennifer Hales, "Rhetoric and Reality: World Bank and CIDA Gender Policies" (2007) 40:1/2 *Convergence* 147-168.

³⁰⁶ *Ibid.* at 148.

rhetoric, serving to mask the realities of poverty while simultaneously promoting another agenda.³⁰⁷ The DAC has taken cognisance of this gap between resources and rhetoric, saying:

For two decades we have said all the right things about the importance of gender equality and women's empowerment for development but our investments in closing the gender equality gap have not matched our political rhetoric... We have tended to focus on the social sectors, or social protection, rather than seeing women as active players in generating pro-poor growth – despite compelling evidence, particularly from sub-Saharan Africa, that gender inequalities slow economic growth and that women play a key role in the productive economy. The gradual increase in more programmatic forms of assistance has perhaps also contributed to some loss of momentum in donor agencies' efforts towards gender equality and women's empowerment. ... As the United Kingdom's Department for International Development (DFID) writes, "We need to be clear about whether we intend to raise our game to match our policy statements, or whether we continue with current levels of engagement on gender equality but revise our claims to match practice".³⁰⁸

In light of the foregoing discussion, it may be successfully argued that gender equality has been framed by the DAC and this does explain why gender was not adequately included in the declaration.

³⁰⁷ *Ibid.*

³⁰⁸ OECD DAC, *Efforts*, *supra* note 223 at 29.

CHAPTER 5 - CONCLUSION

*The choices before us involve far more than just the relevance and effectiveness of aid programmes. Decisions about international support for development will play a part in defining our societies' overall vision for the future. What can development do to help create a stable global order in which people can live secure and productive lives? How can it help to avoid a future of conflict and chaos, of poverty and environmental devastation? How will development co-operation adapt to the changing global context?*³⁰⁹

OECD DAC, *Shaping the 21st Century*:

*Women must no longer accept to be treated as workhorses for development strategies planned by others, they require to be treated as partners.*³¹⁰

Kate Young, *Planning from a Gender Perspective*

In the preceding chapters I sought to locate gender equality in the development discourse of two organisations that have been at the helm of the aid effectiveness agenda - the World Bank and the OECD. As this thesis has sought to demonstrate, the primary concern for the advancement of gender equality by the OECD DAC and the World Bank is to accelerate economic growth. Further, an interrogation of the parties, process and provisions of the Paris Declaration, and examination of the internal structure, representation and culture of the OECD DAC reveal that the advancement of gender equality on the basis that women have an inherent right to equality is lacking. Simply put, in spite of the commitments they make to advance gender equality, international organisations do not back their promises with action.

³⁰⁹ OECD DAC, *Shaping*, *supra* note 216 at 5-6.

³¹⁰ Kate Young, "Planning from a Gender Perspective" in Nalini Visvanathan et. al, eds., *The Women, Gender and Development Reader* (Nova Scotia: Fernwood Publishing, 1997) 366 at 366.

Mukhopadhyay aptly notes of this conundrum:

...after three decades of feminist activism in the field of development – both at the level of theory and practise – most development institutions have still to be constantly reminded of the need for gender analysis in their work, policy-makers have to be lobbied to include the ‘g’ word and even our own colleagues need convincing that integrating gender analysis makes a qualitative difference.³¹¹

Kennedy states that “The role of law in development offers an opportunity to re-focus attention on the political choices and economic assumptions embedded in policy-making”,³¹² something this thesis has sought to do.

From a legal feminist perspective, the Paris Declaration is a regressive framework for guiding development, primarily because it is based on an assumption that aid effectiveness will reduce poverty or generate development results. If the desired results of aid effectiveness are to alleviate poverty, then it is necessary to look beyond mere aid effectiveness and focus on development effectiveness.³¹³ There is, however, no evidence that managing aid better will deliver tangible development outcomes.³¹⁴ The aid effectiveness agenda and practices should therefore, be aligned with internationally agreed-upon development goals, and gender equality needs to be recognized as a development standard.³¹⁵ In view of these insights, where should our energies and agency

³¹¹ Maitrayee Mukhopadhyay, “Mainstreaming Gender or ‘Streaming’ Gender Away: Feminists Marooned in the Development Business” in Cornwall, Harrison & Whitehead, *Contradictions*, *supra* note 46, at 133.

³¹² David Kennedy “The ‘Rule of Law’ as Development” in Hatchard & Perry-Kessaris, *supra* note 294, 17 at 19.

³¹³ DAWN/AWID/WIDE/FEMNET, “Brief Issue Paper on Managing for Development Results and Gender Equality” (paper presented for the preparation of Round Table 4, 3rd High Level Forum, Accra 2008, 2008) at 2, online: Association for Women's Rights in Development <<http://www.awid.org/eng/content/download/42167/440504/file/Brief%20Issue%20Paper%20MfDR.pdf>>.

³¹⁴ Alemany, *supra* note 237 at 12. See Brief Issues Papers prepared by WIDE, AWID, DAWN and FEMNET for the Accra High Level Forum preparation process.

³¹⁵ *Ibid.* at 11.

lie? “Is it possible to introduce into global governance women-centered ways of framing issues?”³¹⁶ Nustad argues that “the structure of the multilateral system makes it unlikely that a radical new conception of development will emerge within its boundaries, and alternatives to development will have to be sought elsewhere.”³¹⁷ I suggest that our task begins in recognising that, despite the best efforts, intended or otherwise, of the World Bank and the OECD to advance gender equality, feminists need to agitate for the re-thinking and re-conceptualisation of what Parisi identifies as the “the central core around which development economics is founded”.³¹⁸ Human rights ought to be the starting and reference point for all discourse on addressing inequality in the variant forms it is expressed. Unfortunately “the neglect of human rights law results partly from the emphasis of industrialized states on dollar diplomacy rather than the spread of democracy and respect for human dignity. The international law standards are clear, but, unfortunately, so are the priorities of most states.”³¹⁹ Before the Paris Declaration came into force, human rights were addressed through stand-alone projects by aid donors. This, however, changed with the adoption of the Declaration. Donors are today addressing human rights and women’s rights issues by mainstreaming these matters in other sector programmes. The result is that the focus on human rights and more so women’s rights is lost.³²⁰ An OECD report notes that

³¹⁶ Elisabeth Prügl & Mary K. Meyer, “Gender Politics in Global Governance” in Meyer & Prügl *supra* note 84, 3 at 5.

³¹⁷ Knut G. Nustad, “The Development Discourse in the Multilateral System” in Bøås & McNeill, *supra* note 1 at 13.

³¹⁸ *Supra* note 182 at 200.

³¹⁹ Aaron Xavier Fellmeth, “Feminism and International Law: Theory, Methodology, and Substantive Reform” (2000) 22 Human Rights Quarterly 658 at 719.

³²⁰ Organisation for Economic Co-operation and Development, *Integrating Human Rights into Development: Donor Approaches, Experiences and Challenges*, (Paris: OECD, 2006) at 82 -83.

Some agencies are, for example cutting down on non-programme interventions, such as support to civil society organisations or grassroots activities...yet they are considered a central element of integrating human rights into development co-operation, by supporting the ability of right – holders to become aware of, claim and enforce their rights.³²¹

The Special Rapporteur on the right to food argues that the Paris Declaration could be further concretized if placed under a human rights framework, he notes:

The current reform process of international aid is based on the principles of ownership, alignment, harmonization, managing for results, and mutual evaluation, which are made explicit in the Paris Declaration on Aid Effectiveness. An explicit endorsement of a human rights framework for the implementation of these principles could make them more concrete and operational. At a general level, human rights-based approaches to development cooperation recognize people “as key actors in their own development, rather than passive recipients of commodities and services”: they emphasize participation as both a means and a goal; they seek to empower, and thus should combine top-down and bottom-up approaches; both outcomes and processes should be monitored and evaluated, following the adoption of measurable goals and targets in programming; all stakeholders should be involved in analysis; and the programmes should focus on marginalized, disadvantaged, and excluded groups, and aim at reducing disparity.³²²

Legal feminists need to continue to expand the spaces where the voices of women can reverberate within international organisations to ensure that human and women’s rights are advanced.³²³ As members of secretariats of international organisations who can influence internal organisation ideas, as government representatives determining country agendas, or as key advisors and activists at international decision-making tables, feminists have a wealth of knowledge to offer about how effective aid can work towards realising transformative development. As Long notes:

³²¹ *Ibid.* at 83.

³²² Special Rapporteur on the right to food, *Report on the role of development cooperation and food aid in realizing the right to adequate food: moving from charity to obligation*, A/HRC/10/5 (2009) at 14.

³²³ Hopefully the efforts to expand the space for women at the UN, through the new women’s agency, in the proposed new UN architecture will provide a platform for this.

So long as we conceptualize the issues of knowledge dissemination/utilization simply in terms of linkage concepts, without giving sufficient attention to human agency and the transformation of meaning at the point of intersection between different actors' lifeworlds, and without analysing the social interactions involved, we will have missed the significance of knowledge itself. Our guiding notions, I suggest, must be *dissonance* not consonance, *discontinuity* not linkage, and *transformation* not transfer of meaning.³²⁴ [emphasis in original]

In a speech she made in 1998, Joanna Kerr asked, "So, can feminists transform development?" In her own response, she said:

Yes, in time. Because two things are essential if development is to expand people's choices and guarantee their human rights. First the global economic system must change. This is our long term goal. Second, processes of change have to explicitly recognise gender imbalances to ensure that all people benefit from development.³²⁵

As economies recover from the global financial crisis, the world's decision makers are doing all they can to reignite the fires of production and consumption.³²⁶ In the midst of this, conversations continue as alternatives are sought to the present economic model. It is important to mention that UN and not the OECD or the World Bank should be at the centre of all development efforts including on aid effectiveness, for as Martens notes, "In a genuinely multilateral and participatory system of global development finance, the United Nations (and not the World Bank or the Development Assistance Committee of the Organisation for Economic Cooperation and Development) has to be the main body for decision making and policy coordination."³²⁷ The UN Charter clearly states its central role in global macroeconomic policy formulation and guidance, a role it has not played

³²⁴ Norman Long, "Contesting Policy Ideas from Below" in Bøås & McNeill, *supra* note 1, at 35.

³²⁵ *Supra* note 179 at 21.

³²⁶ M'Gonigle, Michael. "Green Legal Theory" (2008) 4 *Ökologisches Wirtschaften* 34-38 at 34.

³²⁷ Martens, *supra* note 9, 117 at 121.

for a very long time and, in rethinking the global economic paradigm, this must be re-evaluated. Sen and Grown are clear:

What is lacking is not resources, but political will. But in a world and in countries riven with differences of economic interest and political power, we cannot expect political will for systemic change to emerge voluntarily among those in power. It must be fostered by mass movements that give central focus to the “basic rights” of the poor and demand a reorientation of policies, programmes and projects toward that end.³²⁸

It is with this recognition that, going forward, feminists must be deliberate in their efforts to ensure that gender equality no longer remains excluded from international development policy frameworks and processes, so that people-centered development may become a lived reality for many.

³²⁸ Sen & Grown, *supra* note 76 at 81.

Bibliography

INTERNATIONAL CONVENTIONS AND INSTRUMENTS

Agenda for Development UN GAOR 51st Sess., Annex Agenda Item 96 (b) A/RES/51/240 (1997) 1.

United Nations Millennium Declaration, GA Res. 55/2, UNGAOR, 55th Sess., UN Doc. A/55/L.2 (2000).

Report of the International Conference on Financing for Development, UNGAOR, A/CONF.198/11, Chap. 1, Res. 1, Annex (2002). para 8
United Nations Declaration on the Right to Development, A/Res/ 41/128, UN GAOR, 41st Sess (1986) Art. 1(1).

Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, 1249 U.N.T.S. 3

African Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3/Rev.5 Banjul Charter, Article 17.

International Covenant on Economic, Social and Cultural Rights, 16 December 1966, GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966); 993 UNTS 3; 6 ILM 368 (1967)

Universal Declaration of Human Rights, GA Res. 217 (III), UNGAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948), Article 1.

SECONDARY MATERIAL: MONOGRAPHS

Barnett, Hilaire, *Sourcebook on Feminist Jurisprudence* (London: Taylor & Francis, 2003)

Benería, Lourdes, *Gender, Development, and Globalisation: Economics as if All People Mattered* (New York: Routledge, 2003)

Buss, Doris & Manji, Ambreena, eds., *International Law: Modern Feminist Approaches* (Oregon: Hart Publishing, 2005)

Charlesworth, Hilary & Chinkin, Christie, *"The Boundaries of International Law: A Feminist Analysis"* (Manchester: Manchester University Press, 2000)

Council of Europe, Group of Specialists on Mainstreaming, *Gender Mainstreaming: Conceptual Framework, Methodology and Presentation of Good Practices*, Report EG-S-MS (98) 2, (1998)

Culpeper, Roy, *Titans or Behemoths?* (Boulder: Lynne Rienner, 1997)

DFID, *Gender Equality at the Heart of Development: Why the Role of Women is Crucial to Ending World Poverty* (London: DFID, 2007)

Harvey, David, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005)

International Labour Organization, *ABC of Women Worker's Rights and Gender Equality*, (Geneva: International Labour Organization, 2000)

Kerr, Joanna, *Women's Rights in the Global Economy: Can Feminists Transform Development?* (Guelph: University of Guelph, 1998)

Levit, Nancy & Verchick, Robert R.M., *Feminist Legal Theory: A Primer* (New York: New York University Press, 2006)

Lorber, Judith, *Gender Inequality: Feminist Theories and Politics*, 3d ed. (Los Angeles: Roxbury Publishing, 2005)

Momsen, Janet Henshall, *Gender and Development* (London: Routledge, 2003)

Murphy, Craig N., *Global Institutions, Marginalization and Development* (London: Routledge, 2004)

Nussbaum, Martha, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000).

OECD DAC, *Efforts and Policies of the Members of the Development Assistance Committee*, Development Co-operation Report, Vol. 4:1 (Paris: OECD, 2003)

OECD DAC, *Policy Implications: A DAC Perspective on Donor Policy and Practice, Development Co-operation Report* (Paris: OECD, 2005)

OECD DAC, *Shaping the 21st Century: The Contribution of Development Co-operation* (Paris: OECD, 1996)

Pease, Kelly-Kate S., *International Organizations: Perspectives on Governance in the Twenty-First Century* 2d ed. (New Jersey: Prentice Hall, 2003)

Rapley, John, *Globalization and Inequality: Neoliberalism's Downward Spiral* (Colorado: Lynne Rienner Publishers, 2004)

Reilly, Niamh, *Women's Human Rights: Seeking Gender Justice in a Globalizing Age* (Cambridge: Polity Press, 2009)

Sen, Amartya, *Development as Freedom* (New York: Alfred A. Knopf, 1999)

Sen, Gita & Grown, Caren, *Development, Crises and Alternative Visions* (New York: Monthly Review Press, 1987)

Shearer, I.A., *Starke's International Law* (Butterworths, 11th Edition, 1994) 3.

Shirin, M. Rai, *The Gender Politics of Development: Essays in Hope and Despair* (New Delhi: Zubaan, 2008)

Stein, Howard, *Beyond the World Bank Agenda* (Chicago: University of Chicago Press, 2008)

Tembon, Mercy & Fort, Lucia, eds., *Girls' Education in the 21st Century: Equality, Empowerment, and Growth* (Washington D.C.: World Bank, 2008)

UNCSW, Follow-up to the Fourth World Conference on Women and to the 23rd special session of the General Assembly, entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century", UNCSWOR, 52d Sess., Annex Agenda Item 3, E/CN.6/2008/L.8 (2007, 2008)

UNDP, *Human Development Report: Human Rights and Human Development* (New York: Oxford University Press, 2000)

UNIFEM, *Progress of the World's Women 2008/2009: Who Answers to Women?* (New York: United Nations Development Fund for Women, 2009)

United Nations Development Fund for Women (UNIFEM) & the UN Non-Governmental Liaison Service (NGLS), *Bridging the Gap: Financing Gender Equality* (New York: UNIFEM/ NGLS, 2008)

United Nations Development Program, *Human Development Report 1995: Gender and Human Development* (New York: Oxford University Press, 1995)

United Nations Development Program, *Human Development Report 2000: Human Rights and Human Development* (New York: Oxford University Press, 2000)

Willis, Katie, *Theories and Practices of Development* (Oxon: Taylor & Francis, 2005) at 47.

World Bank, *Engendering Development: Through Gender Equality in Rights, Resources, and Voice* (New York: Oxford University Press, 2001).

World Bank, *Toward Gender Equality: The Role of Public Policy* (Washington D.C.: World Bank, 1995).

SECONDARY MATERIAL: ARTICLES

Adeleye-Fayemi, Bisi, “Financing for Gender Equality and the Empowerment of Women: The Critical Role of Autonomous Women’s Funds in Strengthening Women’s Movements” (Paper presented to the United Nations Division for the Advancement of Women, Expert Group Meeting on Financing for Gender Equality and the Empowerment of Women, Oslo, 5th September 2007) [unpublished] UNDAW EGM/FFGE/2007/EP.12 3.

Agarwal, Bina, “Editorial: Re-Sounding the Alert – Gender, Resources and Community Action” (1997) 25:9 World Development 1373.

Aleman, Cecilia, et al., “Implementing the Paris Declaration: Implications for the Promotion of Women’s Rights and Gender Equality” (Paper commissioned by the Canadian Council for International Cooperation and developed by AWID & WIDE, January 2008).

Alsop, Ruth, Heinsohn, Nina & Somma, Abigail, “Measuring Empowerment: An Analytic Approach” in Ruth Alsop, ed., *Power, Rights and Poverty: Concepts and Connections* (Washington D.C: World Bank, 2005) 120.

Antrobus, Peggy, “Challenging the Given” (Paper presented at the DAWN Africa Debates on Alternative Development Frameworks in Dakar, Senegal, 11 November 1994), *From There is No Alternative to There Must Be an Alternative: Proceedings of the DAWN Africa Debates on Alternative Development Frameworks, Dakar 1994* (Cape Town: SADEP, 1997) 34.

Avin, Rose-Marie, “Engendering Development: A Critique” in Barker & Kuiper, eds., *Feminist Economics and the World Bank: History, Theory and Policy* (London: Routledge, 2006) 65.

Bailey, Barbara, Leo-Rhynie, Elsa & Morris, Jeanette “Why theory?” in Jane L. Parpart, M. Patricia Connelly & V. Eudine Barriteau, eds., *Theoretical Perspectives on Gender and Development* (Ottawa: IDRC, 2000) 1.

Barker, Drucilla, “Neoclassical Economics” in Janice Peterson & Margaret Lewis, eds., *The Elgar Companion to Feminist Economics* (Cheltenham: Edward Elgar, 1999) 570.

Bartlett, Katharine, “Feminist Legal Methods” (1990) 103(4) Harv. L. Rev. 829 at 831.

Batiwala, Srilatha, "Taking the Power Out of Empowerment – An Experiential Account" (2007) 17:4 & 5 *Development in Practice* 557

Bergeron, Suzanne, "Colonizing Knowledge: Economics and Interdisciplinarity in Engendering Development" in Barker & Kuiper, eds., *Feminist Economics and the World Bank: History, Theory and Policy* (London: Routledge, 2006) 127.

Beveridge, Fiona, Nott, Sue & Stephen, Kylie, "Setting the Scene: The Why, What and How of Promoting Equality Between the Sexes" in Fiona Beveridge, Sue Nott & Kylie Stephen, eds., *Making Women Count: Integrating Gender into Law and Policy-Making* (Hants: Dartmouth Publishing, 2000) 11.

Beveridge, Fiona, "International Law: Modern Feminist Approaches" in Doris Buss & Ambreena Manji, eds., *International Law: Modern Feminist Approaches* (Oregon: Hart Publishing, 2005) 159.

Bøås, Morten & McNeill, Desmond, "Ideas and Institutions: Who is Framing What?" in Morten Bøås & Desmond McNeill, eds., *Global Institutions and Development: Framing the World?* (Routledge: London, 2004) 206.

Boskey, Shirley, "Bretton Woods Recalled" (1957) *International Bank Notes* 2.

Chant, Sylvia, "Contributions of a Gender Perspective to the Analysis of Poverty" in Jane Jaquette & Gale Summerfield, eds., *Women and Gender Equity in Development Theory and Practice Institutions, Resources, and Mobilization* (Durham: Duke University Press, 2006) 87.

Charlesworth, Hilary, "Not Waving but Drowning: Gender Mainstreaming and Human Rights in the United Nations" (2005) 18 *Harv. Hum. Rts. J.* 1.

Charlesworth, Hilary, Chinkin, Christine & Shelley Wright "Feminist Approaches To International Law" (1991) 85:4 *A.J.I.L.* 613.

Chinkin, Christine & Wright, Shelley & Charlesworth, Hilary, "Feminist Approaches to International Law: Reflections from Another Century" in Doris Buss & Ambreena Manji, eds., *International Law: Modern Feminist Approaches* (Oregon: Hart Publishing, 2005) 17.

Collins, Michael, "The Monterrey Process and Beyond: An Interview with Tim Wall, Information Officer in the United Nations Department of Public Information Strategic Communication Division, Development Section" (2008) 31:4 *Callaloo* 1302.

Connelly, M. Patricia et al, "Feminism and Development: Theoretical Perspectives" in Jane L. Parpart, M. Patricia Connelly & V. Eudine Barriteau, eds., *Theoretical Perspectives on Gender and Development* (Ottawa: IDRC, 2000) 51.

Cornwall, Andrea, Gideon, Jasmine & Wilson, Kalpana, "Introduction - Reclaiming Feminism: Gender and Neoliberalism" (2008) 39.6 *Institute of Development Studies Bulletin* 1.

Cornwall, Andrea, Harrison, Elizabeth & Whitehead, Ann, "Introduction" in Andrea Cornwall, Elizabeth Harrison & Ann Whitehead, eds., *Feminisms in Development: Contradictions, Contestations and Challenges* (London: Zed Books Ltd., 2007) 1.

Cornwall, Andrea & Nyamu-Musembi, Celestine, "Putting the 'Rights-based' Approach to Development into Perspective" (2004) 25:8 *Third World Quarterly* 1415.

Daneshvar, Naierossadat, "Globalisation and Women: Challenges and Opportunities" in C. Narasimha Rao ed., *Globalisation, Justice and Development* (Serials Publications: New Delhi, 2007) 330.

DAWN/AWID/WIDE/FEMNET, "Brief Issue Paper on Country Ownership and Gender Equality" (paper presented for the preparation of the round table 1, 3rd High Level Forum, Accra 2008. on democratic ownership, December 17, 2007) 1.

DAWN/AWID/WIDE/FEMNET, "Brief Issue Paper on Managing for Development Results and Gender Equality" (paper presented for the preparation of Round Table 4, 3rd High Level Forum, Accra 2008, 2008) 2.

Dossa, Parin, "On Law and Hegemonic Movements: Looking Beyond the Law Towards Subjectivities of Subaltern Women" in Dorothy Chunn & Danny Lacombe, eds., *Law as a Gendering Practice* (Toronto: Oxford University Press, 2000) 139.

Elson, Diane & Çagatay, Nilufer, "The Social Content of Macroeconomic Policies" (2000) 28:7 *World Development* 1347.

Finley, Lucinda, "Breaking Women's Silence in Law: The Dilemma of the Gendered Nature of Legal Reasoning" (1989) 64 *Notre Dame Law Review*, 886.

Friedman, Elisabeth, "Bringing Women to International Human Rights" (2006) 18 *Peace Review: A Journal of Social Justice* 479.

Goetz, Anne Marie, "Political Cleaners: Women as the New Anti-Corruption Force?" in Andrea Cornwall, Elizabeth Harrison & Ann Whitehead, eds., *Gender Myths and Feminist Fables: The Struggle for Interpretive Power in Gender and Development* (Massachusetts: Blackwell Publishing, 2008) 85.

Goetz, Anne-Marie & Sandler, Joanne, "SWapping Gender: From Cross-Cutting Obscurity to Sectoral Security?" in Andrea Cornwall, Elizabeth Harrison & Ann Whitehead, eds., *Feminisms in Development: Contradictions, Contestations and Challenges* (London: Zed Books Ltd., 2007) 161.

Hales, Jennifer, "Rhetoric and Reality: World Bank and CIDA Gender Policies" (2007) 40:1/2 *Convergence* 147.

Harding, Susan, "Introduction: Is There a Feminist Method?" in Susan Harding, ed., *Feminism and Methodology: Social Science Issues* (Bloomington: Indiana University Press, 1987) at 7.

Long, Carolyn M., "An Assessment of Efforts to Promote Gender Equality at the World Bank" in Barker & Kuiper, eds., *Feminist Economics and the World Bank: History, Theory and Policy* (London: Routledge, 2006) 40.

Long, Norman, "Contesting Policy Ideas from Below" in Morten Bøås & Desmond McNeill, eds., *Global Institutions and Development: Framing the World?* (Routledge: London, 2004) 24.

M'Gonigle, Michael, "Green Legal Theory" (2008) 4 *Ökologisches Wirtschaften* 34.

Majury, Diana, "Strategising in Equality" in Martha Albertson Fineman & Nancy Sweet Thomadsen, eds., *At the Boundaries of Law* (London: Routledge, 1991).

Malhotra, Anju, Schuler, Sidney Ruth & Boender, Carol, "Measuring Women's Empowerment as a Variable in International Development." International Center for Research on Women and the Gender and Development Group of the World Bank (2002) 6

Marcussen, Martin, "The Organization for Economic Cooperation and Development as Ideational Artist and Arbitrator: Reality or Dream?" in Bob Reinalda & Bertjan Verbeek, eds., *Decision Making Within International Organizations* (London: Routledge, 2003) 90.

Marks, Stephen P., "The Human Rights Framework for Development: Seven Approaches" in Mushumi Basu, Archana Negi, and Arjun K. Sengupta, eds., *Reflections on the Right to Development*, (New Delhi, Sage Publications, 2005) 23.

Martens, Jens, "Rethinking and Recommitting to Official Development Assistance" in Barry Herman, Federica Pietracci & Krishnan Sharma, eds., *Financing for Development: Proposals from Business and Civil Society* (Tokyo: United Nations University Press, 2001) 117.

Masujima, Ken, “‘Good Governance’ and the Development Assistance Committee: Ideas and Organizational Constraints” in Morten Bøås & Desmond McNeill, eds., *Global Institutions and Development: Framing the World?* (Routledge: London, 2004)

Milner, Helen V., “Why Multilateralism? Foreign Aid and Domestic Principal-Agent Problems” in Darren G. Hawkins et al., eds., *Delegation and Agency in International Organisations* (Cambridge: Cambridge University Press, 2006) 107.

Mkandawire, Thandika, “From There is no Alternative (TINA) to There Must be an Alternative (TheMBA)” (Paper presented at the DAWN Africa Debates on Alternative Development Frameworks in Dakar, Senegal, 11 November 1994), *From There is No Alternative to There Must Be an Alternative: Proceedings of the DAWN Africa Debates on Alternative Development Frameworks, Dakar 1994* (Cape Town: SADEP, 1997) 8.

Mosedale, Sarah, “Assessing Women’s Empowerment” *Enterprise Impact News* (28 March 2004) 2.

Mukhopadhyay, Maitrayee, “Mainstreaming Gender or ‘Streaming’ Gender Away: Feminists Marooned in the Development Business” in Andrea Cornwall, Elizabeth Harrison & Ann Whitehead, eds., *Feminisms in Development: Contradictions, Contestations and Challenges* (London: Zed Books Ltd., 2007) 133.

Naffine, Ngaire, “In Praise of Legal Feminism” (2002) 22:1 L.S. 71.

NGOs on Aid Effectiveness, Press Release, “NGO Statement on Aid Effectiveness” (25 February 2005) V

Niles, Tom, “Required International Initiatives in Trade Policy” in Barry Herman, Federica Pietracci & Krishnan Sharma, eds., *Financing for Development: Proposals from Business and Civil Society* (Tokyo: United Nations University Press, 2001) 135.

Nustad, Knut G., “The Development Discourse in the Multilateral System” in Morten Bøås & Desmond McNeill, eds., *Global Institutions and Development: Framing the World?* (Routledge: London, 2004) 13.

O’Laughlin, Bridget, “A Bigger Piece of a Very Small Pie: Intrahousehold Resource Allocation and Poverty Reduction in Africa” in Andrea Cornwall, Elizabeth Harrison & Ann Whitehead, eds., *Gender Myths and Feminist Fables: The Struggle for Interpretive Power in Gender and Development* (Massachusetts: Blackwell Publishing, 2008) 21.

OECD DAC, *DAC Network on Gender Equality: Summary Record of the Third Meeting of the DAC Network on Gender Equality*, Doc. No. DCD/DAC/GEN/M (2005)1/PROV(2005)

OECD, “Net Official Development Assistance in 2008” (2009).

Parisi, Laura, “‘Disciplining’ and ‘Engendering’ the World Bank: A Comment” in Drucilla K. Barker & Edith Kuiper, eds., *Feminist Economics and the World Bank: History, Theory and Policy* (London: Routledge, 2005) 199.

Prügl, Elisabeth & Meyer, Mary K., “Gender Politics in Global Governance” in Mary K. Meyer & Elisabeth Prügl, eds., *Gender Politics in Global Governance* (Maryland: Rowman and Littlefield, 1999) 3.

Randriamaro, Zo, “Gender and Economic Reforms in Africa: The Hidden Political and Ideological Agenda” online: Third World Network
<<http://www.twinside.org.sg/title/twr122i.htm>>.

Reinalda, Bob & Verbeek, Bertjan, “The Issue of Decision Making within International Organizations” in Bob Reinalda & Bertjan Verbeek, eds., *Decision Making Within International Organizations* (Routledge: London, 2003) 9.

Rittich, Kerry, “Who’s Afraid of the Critique of Adjudication?: Tracing the Discourse of Law in Development” (2001) 22 *Cardozo L. R.* 929.

Robinson, Mary, “Bridging the Gap between Human Rights and Development: From Normative Principles to Operational Relevance”, World Bank Presidential Fellows Lecture, 3 December 2001, quoted in Andrea Cornwall & Celestine Nyamu-Musembi, eds., “Putting the ‘Rights-based’ Approach to Development into Perspective” (2004) 25:8 *Third World Quarterly* 1415.

Runyan, Anne Sisson, “Women in the Neoliberal ‘Frame’” in Mary K. Meyer & Elisabeth Prügl, eds., *Gender Politics in Global Governance* (Maryland: Rowman and Littlefield, 1999) 210.

Sadasivam, Bharati, “The Impact of Structural Adjustment on Women: A Governance and Human Rights Agenda” (1997) 19 *Human Rights Quarterly* 630.

Sen, Gita, “Outline of DAWN’s Platform on Alternative Economic Frameworks” (Paper presented at the DAWN Africa Debates on Alternative Development Frameworks in Dakar, Senegal, 11 November 1994), *From There is No Alternative to There Must Be an Alternative: Proceedings of the DAWN Africa Debates on Alternative Development Frameworks, Dakar 1994* (Cape Town: SADEP, 1997) 10.

Sen, Amartya, “Development: Which Way Now?” in Charles Wilber & Kenneth Jamerson, eds., *The Political Economy of Development and Underdevelopment*, 5th ed. (Singapore: McGraw-Hill, 1992) 5.

Strassman, Diana, "Feminist Economics" in Janice Peterson & Margaret Lewis, eds., *The Elgar Companion to Feminist Economics* (Cheltenham: Edward Elgar, 1999) 360.

Stewart, Anne, "Juridifying Gender Justice: From Global Rights to Local Justice" in John Hatchard & Amanda Perry-Kessaris, eds., *Law and Development: Facing Complexity in the 21st Century - Essays in Honour of Peter Slinn* (London: Cavendish Publishing Limited, 2003) 36.

Stolberg, Sheryl Gay, "Obama Signs Equal Pay Legislation" *The New York Times* (29 January 2009)

Strassman, Diana, "Not a Free Market: The Rhetoric of Disciplinary Authority in Economics" in Marianne A. Ferber & Julie A. Nelson, eds., *Beyond Economic Man: Feminist Theory and Economics* (Chicago: University of Chicago Press, 1993) 54.

Tamanaha, Brian, "The Lessons of Law and Development Studies" (1995) 89 A.J.I.L. 470.

Tan, Kevin, "The Role of Public Law in a Developing Asia" (2004) Sing. J.L.S. 265.

Tzannatos, Zafiris, "The World Bank, Development, Adjustment and Gender Equality" in Drucilla K. Barker & Edith Kuiper, eds., *Feminist Economics and the World Bank: History, Theory and Policy* (London: Routledge, 2005) 13.

United Nations Non-Governmental Liaison Service, *International Development Cooperation Today: Emerging Trends and Debates* (Geneva: United Nations Non-Governmental Liaison Service, 2008) at 1.

Walby, Sylvia, "The 'Declining Significance' or the 'Changing Forms' of Patriarchy?" in Valentine M. Moghadam, ed., *Patriarchy and Economic Development: Women's Positions at the End of the Twentieth Century* (Oxford: Clarendon Press, 1996) 21.

West, Lois, "The United Nations Women's Conferences and Feminist Politics" in Mary K. Meyer & Elisabeth Prügl, eds., *Gender Politics in Global Governance* (Lanham, MD: Rowman & Littlefield, 1999) 177.

Williams, Mariama, "The Paris Declaration on Aid Effectiveness: New Aid Modalities and their Implications for Gender Equality" *DAWN Informs* (November 2007) 1.

Williams, Patricia, "Alchemical Notes: Reconstructing Ideal from Deconstructed Rights" (1987) 22 Harv. C.R. -C.L.L. Rev 401.

Wishik, Heather Ruth, "To Question Everything: The Inquiries of Feminist Jurisprudence" (1985) 1 *Berkeley Women's Law Journal* 64.

Women's Working Group on Financing for Development quoted in United Nations Non-Governmental Liaison Service, *International Development Cooperation Today: Emerging Trends and Debates* (Geneva: United Nations Non-Governmental Liaison Service, 2008) at 11 Box 1.4.

Young, Kate. "Planning from a Gender Perspective" in Nalini Visvanathan et. al, eds., *The Women, Gender and Development Reader* (Nova Scotia: Fernwood Publishing, 1997) 366.

OTHERS: ONLINE SOURCES

Online: United Nations
<<http://www.un.org/millenniumgoals/bkgd.shtml>>

Online: United Nations
<<http://www.un.org/millenniumgoals>>

Online: Organization for Economic Cooperation and Development
<http://www.oecd.org/pages/0,3417,en_36734052_36761863_1_1_1_1_1,00.html>

Online: Development Co-operation Directorate (DCD-DAC)
<http://www.oecd.org/document/35/0,3343,en_2649_34447_42458595_1_1_1_1,00.html>

Online: Office of the Special Adviser on Gender Issues and Advancement of Women
<<http://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>>

Online: Organisation for Economic Co-operation and Development
<http://www.oecd.org/about/0,3347,en_2649_33721_1_1_1_1_1,00.html>

Online: World Bank Group
<<http://siteresources.worldbank.org/BODINT/Resources/278027-1215526322295/BankExecutiveDirectors.pdf>>

Online: Organisation for Economic Co-operation and Development
<http://www.oecd.org/document/38/0,3343,en_2649_34603_1893350_1_1_1_1,00.html>

Online: European Commission/United Nations Partnership on Gender Equality for Development and Peace brochure,
<http://www.unifem.org/attachments/products/EC_UN_PartnershipOnGenderEquality_brochure_eng.pdf>

Online: Organisation for Economic Cooperation and Development
<http://www.oecd.org/document/8/0,3343,en_2649_33721_40381960_1_1_1_1,00.html>

Online: Query Wizard for International Development Statistics (QWIDS)
<<http://stats.oecd.org/qwids/>>

Online: Encyclopædia Britannica "Political Economy" in *Encyclopædia Britannica*.
<<http://search.eb.com/eb/article-255578>>

Online: The World Bank
<<http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/0,,contentMDK:20040565~menuPK:34563~pagePK:345>>

Online: State of the World's Children Report 2009 on Maternal and Child Health.
<<http://www.unicef.org/sowc09/>>

Online: World Bank
<<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/STRATEGIES/CDF/0,,pagePK:60447~theSitePK:140576,00.html>>

Online: Organisation for Economic Cooperation and Development
<<http://www.oecd.org/dataoecd/30/20/38933324.pdf>>

Online: The Group of 77
<<http://www.g77.org/doc/>>

Online: The Reality of Aid
<http://www.realityofaid.org/downloads/RC_Jan07.zip>

Online: *Merriam-Webster Online Dictionary*, s.v. "dance[2]"
<[http://www.merriam-webster.com/dictionary/dance\[2\]](http://www.merriam-webster.com/dictionary/dance[2])>

Online: Reality of Aid
<http://www.realityofaid.org/rchecknews.php?table=rc_jan07&id=2>

Online: Organisation for Economic Cooperation and Development
<<http://www.oecd.org/dataoecd/11/41/34428351.pdf>>

Online: Organisation for Economic Cooperation and Development
<<http://www.oecd.org/dataoecd/11/41/34428351.pdf>>

Online: Norwegian People's Aid, *NPA Development Dictionary*, s.v. "cross-cutting issues
<http://www.npaid.org/www_-_English/World/Development_dictionary/A-F/>

Online: Organisation for Economic Cooperation and Development
<<http://www.oecd.org/dataoecd/30/20/38933324.pdf>>

Online: Development Alternatives with Women for a New Era
<http://www.dawnnet.org/uploads/File/Gigi_APNGOForum%20Oct%202009-Podcast.mp3>

Online: United Nations Development Fund for Women
<http://www.unifem.org/attachments/products/EC_UN_PartnershipOnGenderEquality_brochure_eng.pdf>

Online: Organisation for Economic Cooperation and Development
<<http://www.oecd.org/dataoecd/11/41/34428351.pdf>>