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## World Peace and Gender Equality: Addressing UN Security Council Resolution 1325's Weaknesses

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WORLD PEACE AND GENDER EQUALITY:  
ADDRESSING U.N. SECURITY COUNCIL  
RESOLUTION 1325'S WEAKNESSES

*Elizabeth Griffiths, \* Sara Farman, \*\* and Eric Talbot Jensen \*\*\**

ABSTRACT

*The year 2020 marks the twentieth anniversary of the passage of United Nations Security Council Resolution (“UNSCR”) 1325, the most important moment in the United Nations’ efforts to achieve world peace through gender equality. Over the past several decades, the international community has strengthened its focus on gender, including the relationship between gender and international peace and security. National governments and the United Nations have taken historic steps to elevate the role of women in governance and peacebuilding. The passage of UNSCR 1325 in 2000 foreshadowed what many hoped would be a transformational shift in international law and politics. However, the promise of gender equality has gone largely unrealized, despite the uncontroverted connection between treatment of women and the peacefulness of a nation.*

*This Article argues for the first time that to achieve international peace and security through gender equality, the United Nations Security Council should transition its approach from making recommendations and suggestions to issuing mandatory requirements under Chapter VII of the U.N. Charter. If the Security Council and the international community believe gender equality is the best indicator of sustainable peace, then the Security Council could make a finding under Article 39 with respect to ‘a threat to the peace’—States who continue to mistreat women and girls pose a threat to international peace and security.*

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*Such a finding would trigger the Security Council's mandatory authority to direct States to take specific actions. In exercising its mandatory authority, the Security Council should organize, support, and train grassroots organizations and require States to do the same. It should further require States to produce a reviewable National Action Plan, detailing how each State will implement its responsibilities to achieve gender equality. The Security Council should also provide culturally sensitive oversight on domestic laws which may act as a restraint on true gender equality.*

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## I. INTRODUCTION

*“No country can get ahead if it leaves half of its people behind . . . gender equality is critical to our shared goals of prosperity, stability, and peace.”*<sup>1</sup>

The year 2020 marks the twentieth anniversary of the passage of United Nations Security Council Resolution (“UNSCR”) 1325,<sup>2</sup> the single most important document in international law with respect to gender equality. Over the past two decades, the international community has embraced the growing evidence that women are vital in maintaining international peace and security.<sup>3</sup> The abundance of evidence collected by U.N. women’s organizations and academic studies makes clear that a nation’s treatment of women has a direct correlation to that na-

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1. John Kerry, Opinion, *Why Women are Central to U.S. Foreign Policy*, U.S. DEP’T OF STATE, Mar. 8, 2013, <https://2009-2017.state.gov/secretary/remarks/2013/03/207940.htm> [<https://perma.cc/GVZ8-9WAP>].

2. S.C. Res. 1325, (Oct. 31, 2000) [hereinafter UNSCR 1325].

3. *Goal 5: Achieve Gender Equality and Empower All Women and Girls*, U.N.: SUSTAINABLE DEVELOPMENT GOALS, <https://www.un.org/sustainabledevelopment/gender-equality/> [<https://perma.cc/K5JL-EAJM>] (“Gender equality is not only a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world.”).

tion's overall peacefulness, both internally and externally.<sup>4</sup> As Valerie Hudson,<sup>5</sup> a lead researcher in this field, explained:

[T]he very best predictor<sup>6</sup> of a state's peacefulness is not its level of wealth, its level of democracy, or its ethno-religious

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4. For example, “[w]omen’s direct participation in peace negotiations increases the sustainability and the quality of peace. A study investigating 82 peace agreements in 42 armed conflicts between 1989 and 2011 found that peace agreements with women signatories are associated with durable peace.” *Facts and Figures: Peace and Security*, U.N. WOMEN, <https://www.unwomen.org/en/what-we-do/peace-and-security/facts-and-figures> [<https://perma.cc/GC7R-UW59>]. Further, “[t]he larger the gender gap, the more likely [for a nation-state] to be involved in inter- and intra-state conflict, and to use violence first in a conflict.” Valerie M. Hudson & Chad Emmett, *Sex and World Peace*, WOODROW WILSON CTR. (Apr. 2012), <https://www.wilsoncenter.org/sites/default/files/media/documents/event/Hudson%20Presentation.pdf> [<https://perma.cc/U6RN-FGNV>]. But see Catherine Powell, *How Women Could Save the World, If Only We Would Let Them: From Gender Essentialism to Inclusive Security*, 28 YALE J.L. & FEMINISM, 271, 272 (2017), where the author argues that “while some evidence supports these claims, the *statistical evidence* supporting these claims suffers from methodological flaws.” The author goes on to argue that typecasting women as more peaceful than men denies the fact that “at least some women can be as militaristic and hawkish as men” and denies women their “agency and self-expression.” *Id.* at 275.
5. Hudson is ranked ninety-seventh in Foreign Policy’s Top 100 Thinkers of 2009. Rebecca Frankel, *The FP Top 100 Global Thinkers*, FOREIGN POL’Y (Nov. 25, 2009), <https://foreignpolicy.com/2009/11/25/the-fp-top-100-global-thinkers-7/> [<https://perma.cc/Y4J2-VBKD>].
6. Hudson’s research is too extensive to thoroughly reproduce and analyze here, but it is sufficient to note that several of the key indicators of a state’s peacefulness explored in her research are the physical security of women; domestic laws on family law topics such as marriage, divorce, and inheritance; and a male gender imbalance, meaning a disproportionate male population based on factors such as female infanticide. These factors, and many others, build a statistical database that allows Hudson to draw her conclusions. She states:

On our scale measuring the physical security of women [with 0 being the best and 4 being the worst], no country in the world received a 0. Not one. The world average is 3.04, attesting to the widespread and persistent violence perpetrated against women worldwide, even among the most developed and freest countries.

Valerie M. Hudson, *What Sex Means for World Peace*, FOREIGN POL’Y (Apr. 24, 2012), <https://foreignpolicy.com/2012/04/24/what-sex-means-for-world-peace/> [<https://perma.cc/6SZV-8BRJ>]. She argues further:

In family law, women are disadvantaged in areas such as marriage, divorce, and inheritance. This inequity in turn serves as a foundation for violence against women, while also undercutting their ability to fend for themselves and their children. My colleagues and I found that the world’s average score for inequity in family law is 2.06, indicating that most

identity; the best predictor of a state's peacefulness is how well its women are treated. What's more, democracies with higher levels of violence against women are as insecure and unstable as nondemocracies.<sup>7</sup>

Matthew Rycroft, the United Kingdom's permanent representative to the U.N. during the Balkan peace talks, argued that having women at the peace table is vital to creating lasting security in Syria. He said, "[a] diplomats in the Balkans two decades ago, we watched as the failure to include women in peace negotiations contributed to a divisive, paralyzing political settlement."<sup>8</sup> The U.N. Secretary-General added in 2005, that "there is no tool for development more effective than the empowerment of women . . . And I would venture that no policy is more important in preventing conflict, or in achieving reconciliation after a conflict has ended."<sup>9</sup> President Obama commented that "[y]ou can gauge the success of a society by how it treats its women."<sup>10</sup>

Recognizing this phenomenon and its effect on international peace and security, the United Nations Security Council has sought to improve the treatment of women worldwide by improving the internation-

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countries have laws that discriminate to a greater or lesser degree against women.

*Id.* She concludes that "[u]nless we consciously and swiftly empower women to exercise their full rights of self-determination, as social, political and economic actors, we cannot expect to duck the demographic blow back that we have currently set in motion." Valerie M. Hudson, *Women and the Demography-Security Nexus*, WORLD POL. REV. (Nov. 20, 2012), <https://www.worldpoliticsreview.com/articles/12511/women-and-the-demography-security-nexus> [<https://perma.cc/MQK2-6GB4>] [hereinafter *Women and the Demography-Security Nexus*].

7. Hudson, *What Sex Means for World Peace*, *supra* note 6.
8. Matthew Rycroft & Swanee Hunt, *Want Peace in Syria? Put Women at the Negotiating Table*, DEF. ONE (Jan. 29, 2016), <https://www.defenseone.com/ideas/2016/01/want-peace-syria-put-women-negotiating-table/125536/> [<https://perma.cc/Z672-Q443>].
9. Press Release, Empowerment of Women the Most Effective Development Tool, Secretary-General Tells Commission on Status of Women, U.N. Press Release SG/SM/9738-WOM/1489 (Feb. 28, 2005), <https://www.un.org/press/en/2005/sgsm9738.doc.htm> [<https://perma.cc/2EDB-Z8CP>] (quoted in BRENDA FITZPATRICK, TACTICAL RAPE IN WAR AND CONFLICT: INTERNATIONAL RECOGNITION AND RESPONSE 221 (2016)).
10. Jeffrey Goldberg, *The Obama Doctrine*, ATLANTIC (Apr. 2016), <https://www.theatlantic.com/magazine/archive/2016/04/the-obama-doctrine/471525/> [<https://perma.cc/LF8X-C5R7>].

al legal system.<sup>11</sup> But have these efforts been enough? In recent remarks to the Security Council, the U.N. Secretary General stated:

[Despite the fact that the] women, peace, and security agenda is clearly one of the top priorities of the United Nations as a whole . . . the commitment that is always reflected [by the Security Council] is not translating into real change around the world. It is not coming fast enough or far enough. Change is coming at a pace that is too slow for the women and girls whose lives depend on it, and for the effectiveness of our efforts to maintain international peace and security.<sup>12</sup>

At least some responsibility for the limited success can be attributed to the fact that initiatives towards gender equality have not been fully embraced by States. Often the international efforts have been centralized or external to the State, inhibiting support for, and recognition of, these efforts within existing local structures, such as grassroots movements. These local structures are key to providing greater context and cultural awareness about these efforts within States. Additionally, the lack of adaptable *top-down*<sup>13</sup> approaches, such as a universal implemen-

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11. See, e.g., Press Release, Security Council, Security Council Calls on United Nations, Regional Organizations to Bolster Role of Women in Peacekeeping, Unanimously Adopting Resolution 2538, U.N. Press Release SC/14288 (Aug. 28, 2020), <https://www.un.org/press/en/2020/sc14288.doc.htm> [<https://perma.cc/2DXN-SKQC>]; see also KRISTINA MADER ET AL., MAPPING WOMEN, PEACE AND SECURITY IN THE U.N. SECURITY COUNCIL: 2019 (2020); *Security Council Open Debate on Women, Peace and Security*, UNITED NATIONS PEACEBUILDING, <https://www.un.org/peacebuilding/news/security-council-open-debate-women-peace-and-security> [<https://perma.cc/B5GY-ZU5B>]; *Women, Peace, and Security in the Work of the U.N. Security Council*, U.N. WOMEN, <https://www.unwomen.org/en/what-we-do/peace-and-security/un-security-council> [<https://perma.cc/K336-DX5A>].
  12. Press Release, Pledges on Women's Rights Have Not Translated into Real Change Nearly 20 Years after Resolution 1325 (2000), Secretary-General Tells Security Council, U.N. Press Release SG/SM/19834-SC/14000-WOM/2198 at ¶ 2-3 (Oct. 29, 2019), <https://www.un.org/press/en/2019/sghsm19834.doc.htm> [<https://perma.cc/Y833-VFHZ>].
  13. A top-down approach starts with international or domestic government implementation of support for protection and empowerment of individuals whereas a bottom-up approach starts with individuals and communities who act on their own behalf in creating solutions. Such an approach, for example, has been used in Nepal. See Nitya Chavana & Shehnab Sahim, *A Top-Down Approach for Gender Empowerment in Nepal*, CLIMATE CHANGE, AGRIC. & FOOD SEC.: CGIAR (Jan. 26, 2018), <https://ccafs.cgiar.org/news/top-down-approach-gender-empowerment-nepal#.X1V9LXIKjOi> [<https://perma.cc/DAN8-RZH7>]. The project has had mixed results. See Prachi Patel, *In Nepal, Despite Political Empowerment, Women Find Lim-*

tation of effective National Action Plans (“NAPs”), continues to inhibit equal treatment of women at the national level. This hinders a State’s ability to fully contribute to the development of international peace and security.

However, this Article argues that the single most important factor contributing to the failure of prior efforts is the lack of authoritative action or enforcement by the Security Council. As the international community recognizes the value of the equal treatment of women and girls, international law becomes responsible for fostering international peace and security by addressing the fundamental and widespread disparities that continue to prevent many of the world’s women from taking their rightful places in their communities and governments.

This Article proposes that the Security Council exercise its Chapter VII authority with respect to the equal treatment of women. The previous twenty years of U.N. initiatives without Chapter VII authority have been ineffective in forcing global change; it is now time to change the approach. By making clear the connection between international peace and security and the equal treatment of women, the Security Council has placed this initiative squarely within its Chapter VII authority. For the required refocus of international law on gender equality to fully realize its potential impact on increasing international peace and security, the Security Council must invoke Chapter VII authority when mandating key steps to achieve gender equality. These steps could begin with the Security Council mandating general state level support of grassroots organizations, the creation of a NAP template by the U.N. with the input of civil society, the universal requirement that Member States implement an effective NAP based on the template, or a robust review and correction of domestic laws that allow and reinforce gender inequality in areas such as inheritance, property ownership, business, and domestic violence.

Part II of this Article describes how the international community in general, the Security Council, and other U.N. organs and agencies, have used data correlating the treatment of women and the overall peacefulness of a nation to embark on an aggressive attempt to use gender equality to achieve international peace and security. Part III concludes that these international efforts have been mostly ineffective.

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*ited Opportunities to Shape Water Policy*, INT’L WATER MGMT. INST.: BLOG (Mar. 6, 2020), <https://www.iwmi.cgiar.org/2020/03/in-nepal-despite-political-empowerment-women-find-limited-opportunities-to-shape-water-policy/> [https://perma.cc/37NF-CSME]. However, the top-down aspects of this are generally recognized as successful and it is other factors, such as systematic barriers to employment and education, that are inhibiting the effectiveness of the initiatives. *Id.*



Part IV of the Article argues that the Security Council can dramatically increase the effectiveness of this prior work by invoking Chapter VII. If the international community really believes gender equality impacts international peace and security, the proper procedure requires the use of the Security Council's Chapter VII mandatory authority. Part IV further outlines a number of specific actions that the Security Council could mandate, all of which would represent progress in this area.

If a State's treatment of women predicts its stability as the statistics suggest, the changes proposed in this Article will present the international community with a chance to take a meaningful step forward.<sup>14</sup> These changes will not only better the lives of billions of women and girls across the world, but also increase international peace and security through gender equality.

## II. UNSCR 1325

*“Resolution 1325 . . . was one of the most inspired decisions of the United Nations Security Council. The recognition that peace is inextricably linked with gender equality and women’s leadership was a radical step for the highest body tasked with the maintenance of international peace and security.”*<sup>15</sup>

UNSCR 1325 was the first major international recognition that a nation's treatment of its women affects national and global peace and security. Described as “the international body's first full-fledged attention to gendered aspects of peace and conflict” and “one of the most crucial U.N. resolutions on peace and security,”<sup>16</sup> UNSCR 1325 was a milestone<sup>17</sup> in the struggle for gender equality and solidified the link be-

14. VALERIE M. HUDSON, BONNIE BALLIF-SPANVILL, MARY CAPRIOLI & CHAD F. EMMETT, *SEX AND WORLD PEACE* 95-118 (2012).

15. RADHIKA COOMARASWAMY, U.N. WOMEN, PREVENTING CONFLICT, TRANSFORMING JUSTICE, SECURING THE PEACE 5 (2015), [https://wps.unwomen.org/pdf/en/GlobalStudy\\_EN\\_Web.pdf](https://wps.unwomen.org/pdf/en/GlobalStudy_EN_Web.pdf) [<https://perma.cc/9HJA-QBUJ>].

16. GENDER, CONFLICT, PEACE, AND UNSC RESOLUTION 1325 4 (Seema Shekhawat ed., 2018).

17. For example, in 2015 the Secretary-General on Women, Peace, and Security (“WPS”) reported:

New research shows the increasing presence of references to women and gender perspectives in peace agreements, in particular after the adoption of resolution 1325 (2000). An analysis of 664 agreements produced between 1990 and 2000 showed that 73 (11 per cent) included at least one reference to women. An analysis of 504 agreements reached in the period

tween the national status of women and international peace and security. Fifteen years after the creation of UNSCR 1325, Executive Director of U.N. Women Phumzile Mlambo-Ngcuka stated that “the recognition that peace is inextricably linked with gender equality and women’s leadership was a radical step for the highest body tasked with the maintenance of international peace and security.”<sup>18</sup> As revolutionary as it was, UNSCR 1325 built on an important history of U.N.-adopted resolutions and policies that paved the way for women-focused peace and security initiatives.

### A. Pre-UNSCR 1325 Efforts

Even before the passage of UNSCR 1325, the international community was aware of global gender inequality and was committed to addressing it through cooperative international efforts. These landmark actions included ratifying the Universal Declaration of Human Rights (“UDHR”), convening the 1985 Women’s Conference, the passage of the Convention on the Elimination of all Forms of Discrimination Against Women (“CEDAW”), assembling the Beijing Conference, and creating the International Criminal Court (“ICC”). These actions informed the development and passage of UNSCR 1325 as well as the post-UNSCR 1325 assessment reports<sup>19</sup> following its ratification.<sup>20</sup>

This section provides a brief chronological overview of prior Women, Peace, and Security (“WPS”) initiatives and successes and highlights the significant gaps remaining between international WPS policymaking

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after the adoption of resolution 1325 (2000) until 1 January 2015 showed that 138 (27 per cent) included references to women.

U.N. Secretary-General, *Women and Peace and Security: Report of the Secretary-General*, ¶ 13, U.N. Doc. S/2015/716 (Sept. 16, 2015). [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2015\\_716.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_716.pdf) [https://perma.cc/4UMH-RNW9].

18. COOMARASWAMY, *supra* note 15, at 5.

19. In UNSCR 1325, the Security Council tasked the Secretary-General with carrying out a study on the “impact of armed conflict on women and girls, the role of women in peacebuilding and the gender dimensions of peace processes and conflict resolution.” UNSCR 1325, *supra* note 2, ¶ 16. These assessments provide comprehensive findings and analysis and set out key recommendations. See *infra* Section II.C.2.

20. For the complete database of all reports on Women, Peace and Security, see generally, U.N. *Documents for Women, Peace and Security*, SEC. COUNCIL REP., [https://www.securitycouncilreport.org/un\\_documents\\_type/secretary-generals-reports/?ctype=Women%2C%20Peace%20and%20Security&cbtype=women-peace-and-security](https://www.securitycouncilreport.org/un_documents_type/secretary-generals-reports/?ctype=Women%2C%20Peace%20and%20Security&cbtype=women-peace-and-security) [https://perma.cc/9F5L-RTYL].

and implementation. This Article will demonstrate that these shortcomings in implementation are due to the lack of mandatory adoption of and compliance with WPS resolutions. Part IV argues that WPS progress will remain piecemeal at best until these initiatives are enforced by the Security Council under Chapter VII.

### 1. Early Human Rights Documents

Contemporary efforts aimed at achieving women's equality have their foundation in the post-World War II recognition of certain enumerated human rights first articulated in the UDHR.<sup>21</sup> While this might have been an appropriate beginning for achieving gender equality, the UDHR minimizes the role of women in maintaining international peace.<sup>22</sup> The U.N.'s westernized viewpoint prioritizes principles of state sovereignty and non-interference rather than human security.<sup>23</sup> Since gender equality blankets women's equal rights and is a category of human security, this viewpoint has led to a slow recognition of women's roles in maintaining peace and security.<sup>24</sup> Still, despite the lack of explicit language concerning gender equality, many believe that the UDHR was the first real step toward women's involvement in peace and security initiatives.<sup>25</sup>

The UDHR expressed certain aspects of humanity as inalienable rights and opened pathways to preserve rights in the future.<sup>26</sup> It men-

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21. UDHR Article 2 states: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948) [hereinafter UDHR].
  22. SANAM NARAGHI ANDERLINI, WOMEN BUILDING PEACE: WHAT THEY DO, WHY IT MATTERS 191-93 (2007).
  23. While noting the importance of human security, the General Assembly emphasizes supreme respect for state sovereignty. For example, the resolution "[u]rges all States to respect the principle of non-interference in the internal affairs of States and the sovereign right of peoples to determine their political, economic and social system." G.A. Res. 47/130, ¶ 5 (Feb. 22, 1993).
  24. Furthermore, the westernized concept of sovereignty, beginning with the Peace of Westphalia peace treaties in 1648, widely established what is now a prevailing but not globally accepted order among states. Derek Croxton, *The Peace of Westphalia of 1648 and the Origins of Sovereignty*, 21 INT'L HIST. REV. 569-91 (1999).
  25. ANDERLINI, *supra* note 22, at 193.
  26. Veronica Fynn Bruey, *Redefining Women's Roles in International and Regional Law in GENDER, CONFLICT, PEACE, AND SECURITY COUNCIL RESOLUTION 1325* 21, 26-28 (Seema Shekhawat ed., 2018).

tions gender only once, stating in Article 2 that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>27</sup> This general statement identifies gender merely as a basis for non-discrimination.<sup>28</sup> The freedoms and rights expressed in this declaration—including the rights to equal pay for equal work, education, health, and participation and influence in the development of society—formed a foundation regarding the relationship between human security and gender.<sup>29</sup> This language has been widely adopted, particularly in subsequent international human rights treaties,<sup>30</sup> ensuring the applicability of these principles to women.

Following the adoption of the UDHR, non-traditional threats to international peace and security, such as HIV/AIDS, were gradually recognized as serious because of their ties to human security.<sup>31</sup> The UDHR’s focus on human rights initiated the transition within the international community to a recognition that human security was a significant aspect of the greater concept of international peace and security.<sup>32</sup> This shift also included a greater focus on examining human security-related practices within States, such as a proscription on torture and ensuring individual rights upon arrest.<sup>33</sup> This view eventually allowed the umbrella of peace and security to expand to include human security or any “challenges pertaining to survival, livelihood, and dignity of people” as defined by the General Assembly Resolution 66/290.<sup>34</sup> This vital shift proved essential for the development of future documents addressing the important relationship between women and security, though the UDHR did not itself include such foresight.

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27. UDHR, *supra* note 21, ¶ 2.

28. *Id.*

29. *Id.*

30. For example, the International Covenant on Economic, Social and Cultural Rights incorporates similar language, calling for “[f]air wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.” G.A. Res. 2200A (XXI), art. 7 §(a)(i) (Dec. 16, 1966).

31. Des Gasper & Thanh-Dam Truong, *Deepening Development Ethics: From Economism to Human Development to Human Security*, 17 EUR. J. DEV. RSCH. 372, 373-84 (2005).

32. *Id.*

33. UDHR, *supra* note 21, at art. 5.

34. The United Nations General Assembly defines human security as “an approach to assist Member States in identifying and addressing widespread and cross-cutting challenges to the survival, livelihood and dignity of their people.” G.A. Res. 66/290, ¶ 3 (Oct. 25, 2012); *see also* Gasper & Truong, *supra* note 31, at 372-84.

Building directly on the UDHR, two important human rights documents followed in 1966: The International Covenant on Civil and Political Rights (“ICCPR”)<sup>35</sup> and the International Covenant on Economic, Social, and Cultural Rights (“ICESCR”).<sup>36</sup> Both agreements took specific language from the UDHR and created legally binding and widely ratified international agreements.<sup>37</sup> An in-depth analysis of these three international human rights documents is beyond the scope of this Article, but it is important to note that while the agreements did not specifically codify a right to gender equality, they have provided the basis for almost all subsequent work in the WPS area.

## 2. Human Security

As mentioned above, the international shift to human security was an important, worldwide trend that greatly impacted the global women’s movement. Near the end of the Cold War, international committees began to view threats unrelated to armed conflict, such as the HIV/AIDS epidemic and environmental degradation, as substantial disrupters to international security.<sup>38</sup> This new discourse was a paradigmatic shift away from the traditional state- and military-oriented notions of security, that of security being assessed as the presence or not of an

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35. Article 3 of the ICCPR states that “the States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.” United Nations International Covenant on Civil and Political Rights art. 3, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

36. The ICESCR focuses on protection of economic, social, and cultural human rights. It specifies the equal right of men and women to these rights and prohibits gender-based discrimination. United Nations International Covenant on Economic, Social, and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].

37. Compare ICCPR, *supra* note 35, at articles 6-8, with UDHR, *supra* note 21, at articles 3-5. Compare ICESCR, *supra* note 36, at articles 6-11 with UDHR, *supra* note 21, at articles 22-23, 25. The ICCPR has been ratified by 173 countries. *International Covenant on Civil and Political Rights*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=\\_en&mtdsg\\_no=IV-4&src=IND](https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-4&src=IND) [<https://perma.cc/24LC-8RSF>]. The ICESCR has been ratified by 171 countries. *International Covenant on Economic, Social, and Political Rights*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-3&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4&clang=_en) [<https://perma.cc/Y6PR-ABQS>].

38. Francis Deng, *Human Security and the Global Challenge of Internal Displacement*, BROOKINGS (May 11, 2000), <https://www.brookings.edu/on-the-record/human-security-and-the-global-challenge-of-internal-displacement/> [<https://perma.cc/5UVD-9UQ9>].

armed conflict, to a more people-centric vision with emphasis on the internal workings of the state.<sup>39</sup> For example, South Sudan ambassador Francis Deng<sup>40</sup> stated:

[Human security] provides the umbrella for the stipulation of sovereignty as responsibility under the watchful eye of the international community to hold states accountable and offer them a helping hand in ensuring the physical, psychological, moral and material well-being of all those under their jurisdiction. It also provides an appropriate framework for bringing non-state actors into parameters of accountability.<sup>41</sup>

Scholar C. de Jonge Oudraat argues that this shift to a human-centered view of security was an essential prerequisite of the creation of UNSCR 1325 and the progression of the global women's movement.<sup>42</sup> This shift was the first time that gender equality was tied to international peace and security by way of human security.

Discussing the human security framework for gender issues and women's rights, gender issues scholar Natalie Florea Hudson states:

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39. Canadian academic and public servant Lloyd Axworthy explains:

In essence, human security means safety for people from both violent and non-violent threats. It is a condition or state of being characterized by freedom from pervasive threats to people's rights, their safety, or even their lives. From a foreign policy perspective, human security is perhaps best understood as a shift in perspective or orientation. It is an alternative way of seeing the world, taking people as its point of reference, rather than focusing exclusively on the security of territory or governments. Like other security concepts—national security, economic security, food security—it is about protection. Human security entails taking preventive measures to reduce vulnerability and minimize risk, and taking remedial action where prevention fails.

Lloyd Axworthy, *Human Security: Safety for People in a Changing World*, CAN. DEP'T. OF FOREIGN AFFS. & INT'L TRADE Part 3 (1999), <http://www.summit-americas.org/Canada/HumanSecurity-english.htm> [https://perma.cc/E5HU-2UZH].

40. See *Secretary-General Appoints Francis Deng of Sudan as Special Advisor for Prevention of Genocide, Mass Atrocities*, UNITED NATIONS (May 29, 2007), <https://www.un.org/press/en/2007/sga1070.doc.htm> [https://perma.cc/G9FP-ST8N] (Francis Deng served as a politician and diplomat of South Sudan and was the country's first ambassador to the United Nations from 2012 to 2016).

41. Deng, *supra* note 38.

42. Unfortunately, this shift was "eclipsed by the terrorist attacks of September 11, 2001 when international attention became consumed by military responses to counter terrorism in Afghanistan and Iraq" and took focus away from the women's movement. Chantal de Jonge Oudraat, *UNSCR 1325—Conundrums and Opportunities*, 39 INT'L INTERACTIONS 612 (2013).

[The framework] operates from the premise that women's rights and gender equality situated in a human rights frame or even a moral frame are not enough and simply not as effective in generating awareness, response, and commitment. Therefore, the framework highlights how protecting and promoting the rights of women is a fundamental component of international peace and security—the driving mission of the U.N. The idea is that security needs women, as much as women need security. The security language serves as a framework for action through discursive positioning that situates women as central, or at least part of, the security agenda. The frame highlights how women's rights and gender equality can contribute to international peace and security, and therefore constitute vested interest for many national and international leaders.<sup>43</sup>

Tying the international peace and security agenda to women's security and gender treatment issues, while differentiating it from the traditional armed conflict issues that pervaded discussions on international peace and security, elevates the importance of human security to a global level. As Hudson concludes, “[w]ith this framework, targeting the U.N. Security Council became critical.”<sup>44</sup> And as this Article argues,<sup>45</sup> targeting the legally binding authority given to the Security Council with respect to international peace and security is the next step in the continual progression of achieving gender equality.

### 3. CEDAW and Its Optional Protocol

The U.N. General Assembly declared 1975 as International Women's Year and the following ten years (1976-1985) were declared the United Nations Decade for Women.<sup>46</sup> These two declarations emphasized women's issues and this new emphasis represented a turning point for the international community. These initiatives were focused on evaluating the status and rights of women and promoting the incorpora-

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43. NATALIE FLOREA HUDSON, GENDER, HUMAN SECURITY AND THE UNITED NATIONS: SECURITY LANGUAGE AS A POLITICAL FRAMEWORK FOR WOMEN 1, 9 (2009) [hereinafter GENDER, HUMAN SECURITY AND THE UNITED NATIONS].

44. *Id.*

45. *See infra* Part V.

46. *See* UNITED NATIONS, THE UNITED NATIONS AND THE ADVANCEMENT OF WOMEN 1945-1996 80 (1996).

tion of women into decision-making bodies at all levels of society. The United Nations Decade for Women culminated in the adoption of CEDAW,<sup>47</sup> a treaty which aimed to achieve equality between women and men.<sup>48</sup>

CEDAW was developed to protect women's rights and prevent gender discrimination.<sup>49</sup> CEDAW consists of thirty articles, with the first sixteen defining the rights of women.<sup>50</sup> This convention built upon the human-centric foundation of the UDHR, while also addressing women specifically for the first time.<sup>51</sup> International security and political science scholars Valerie M. Hudson, Bonnie Ballif-Spanvill, Mary Caprioli, and Chad F. Emmett, reflecting on the value of CEDAW, stated, "It has been noted that unless a right is said to expressly belong to women, it may not in fact be assumed to do so. CEDAW endeavors to be a bill of human rights for all women across the globe."<sup>52</sup>

The language of the treaty urges Member States to eliminate discrimination against women throughout political, public, and economic sectors.<sup>53</sup> The treaty places the responsibility of achieving gender equali-

47. Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW]. CEDAW has been ratified by 189 countries, but the United States has not ratified it. Eighty of those nations have made reservations or declarations concerning their ratification. *Convention on the Elimination of All Forms of Discrimination Against Women*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg\\_no=IV-8&chapter=4&lang=en#4](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-8&chapter=4&lang=en#4) [<https://perma.cc/2PDM-W4EC>].

48. CEDAW, *supra* note 47, at art. 15.

49. *Id.* at Preamble.

50. *Id.* at art. 1–16.

51. For example, the UDHR only mentions women's rights twice, once in the preamble and once in article 16, but in both cases there is no specific distinction for rights of women. They are mentioned in conjunction with rights of men. *See generally* UDHR, *supra* note 21. In contrast, CEDAW deals specifically with rights for women, without tying them to similar rights for men. *See generally* CEDAW, *supra* note 47.

52. Hudson, et al. further explains:

Each state party is asked to present a report every four years that documents what actions the government is taking to implement CEDAW, and in what areas progress still needs to be made. These state reports are reviewed by the CEDAW Committee, which issues observations about the truthfulness and rigor of the state reports. Indeed, the committee also welcomes the submission of "shadow CEDAWs," CEDAW reports written by nongovernmental organizations within the nation . . . .

HUDSON ET AL., *supra* note 14, at 123-24.

53. For example, Article 3 states:



ty on domestic governments.<sup>54</sup> Along with promoting women's rights throughout all levels of government, the treaty encourages the "recognition of the common responsibility of men and women in the upbringing and development of their children" to eliminate stereotypical behavior perpetuating gender inequality at the civil society level.<sup>55</sup>

Unfortunately, not all Member States have embraced this vision. Although 189 States have ratified CEDAW, Member States have limited the original reach and intent of this document through the use of reservations.<sup>56</sup> Articles 2 and 16, which address marriage and family planning, birth control, sexuality, and reproductive health, have been especially debated among Member States.<sup>57</sup> Some sixty Member States

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

CEDAW, *supra* note 47, at art. 3.

54. HUDSON ET AL., *supra* note 14.

55. CEDAW, *supra* note 47, at art. 5.

56. The Vienna Convention on the Law of Treaties defines a reservation as "a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State." Vienna Convention on the Law of Treaties art. 2(1)(d), May 23, 1969, 1155 U.N.T.S. 331. Amnesty International states in a report:

Reservations to CEDAW reveal that while it is widely ratified in the region, it is also subject to reservations that substantially hinder its implementation. These reservations are very broad and lack clarity and precision. Most are related to Articles 2 and 16, considered by the Committee to be core provisions of the Convention, and any reservations to these articles are therefore incompatible with it. These reservations relate to the object and purpose of the Convention, and therefore are prohibited by international law. They would mean that discrimination against women is effectively sustained in law and practice, and deny women the protection against discrimination and violence. This is particularly so, as national legislation in the region, including the religiously-inspired ones, is often discriminatory against women.

AMNESTY INTERNATIONAL, RESERVATIONS TO THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN: WEAKENING THE PROTECTION OF WOMEN FROM VIOLENCE IN THE MIDDLE EAST AND NORTH AFRICA REGION 15 (2004), <https://www.refworld.org/pdfid/42ae98b80.pdf> [https://perma.cc/Q7Q6-ZMMP].

57. Linda M. Keller, *The Impact of States Parties' Reservations to the Convention on the Elimination of All Forms of Discrimination Against Women*, 2014 MICH. ST. L. REV.

have entered reservations on these two articles alone.<sup>58</sup> These reservations have, in large part, suffocated CEDAW's potential by limiting the number of Member States who follow the article guidelines.<sup>59</sup>

#### 4. 1985 World Conference on Women

As the United Nations Decade for Women came to an end in 1985, 157 nations met together at the World Conference on Women.<sup>60</sup> The task of the conference was to review and evaluate the work of the past decade.<sup>61</sup> The objectives of the decade were equality, development, and peace.<sup>62</sup> The general discussion of the conference recognized the need for women to live securely under conditions of equality and justice, while also recognizing that it requires time to change traditional views and cultural stereotypes.<sup>63</sup> While the Conference celebrated many improvements,<sup>64</sup> it also noted the large disparity between the legal status and reality of women.<sup>65</sup> The areas of particular concern were women's access to healthcare, family planning, employment, water, and food resources, as well as the prevalence of violence against women and women's ability to participate in decision-making.<sup>66</sup> For example, even after the ratification of CEDAW, the Conference reported that multiple factors, including traditional customs and laws, blocked women's control over their own fertility and family planning.<sup>67</sup>

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309, 312-17 (2014) (explaining that because reservations are allowed on WPS initiatives it inhibits CEDAW's main purpose).

58. To view the reservations lodged by States, please refer to the U.N. Treaty Collection, available at [https://treaties.un.org/Pages/Index.aspx?clang=\\_en](https://treaties.un.org/Pages/Index.aspx?clang=_en).

59. HUDSON ET AL., *supra* note 14, at 127-28. Recent developments in CEDAW include the "No Reservations Movement" because of family law and local religious conflicts with women's rights led by Muslim women.

60. The Conference culminated in the adoption of the Nairobi Forward-Looking Strategies for the Advancement of Women, to be implemented by the year 2000. *See Third World Conference on Women, Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace*, U.N. Doc. A/CONF.116/28/Rev.1 (July 15-26, 1985).

61. *See generally id.*

62. *Id.* ¶ 9.

63. *Id.* ¶ 115.

64. *Id.* ¶ 99.

65. *Id.* ¶ 103.

66. *Id.* ¶¶ 112-13.

67. *Id.* ¶ 130.

The Conference concluded that merely stating provisions that required equality was not the same as attaining real gender equality.<sup>68</sup> In fact, following the Conference, women's participation in the U.N. increased yet participation still fell far below the targets.<sup>69</sup> These targets were not met on any level of involvement, both within governmental and non-governmental activities. Though the Conference concluded that women's participation in security initiatives is essential for continuing global security, women's involvement in peace research and education remained limited.<sup>70</sup>

Recognizing that the goals for the Decade for Women had not been met, the Conference recommended and the General Assembly approved an ongoing evaluation of statistical data on women.<sup>71</sup> The Conference used this statistical research to create strategies for the advancement of women;<sup>72</sup> these strategies provide a practical and effective guide for global action on a long-term basis.<sup>73</sup> One of the first strategies aimed to get all the governments that had not signed CEDAW to do so.<sup>74</sup> This was done with the belief that the first step to encourage women's involvement in statewide and global security initiatives was to create legislation to counter established inequality in accordance with CEDAW's emphasis that "the effectiveness of any legislative measures . . . must be reinforced by appropriate legal redress mechanisms."<sup>75</sup> This emphasis was placed with the understanding that CEDAW has no inherent enforcement mechanism, but only provides a basis for States to seek enforcement on their own.

It is worth noting here that the voluntary nature of accession to CEDAW undercuts its effectiveness. Even if CEDAW contained the necessary provisions to resolve many of the issues of gender inequality in domestic law provisions and practice, it still lacks the enforcement mechanisms that would be present if the Security Council invoked Chapter VII authority.<sup>76</sup> As will be discussed below, the failed enforce-

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68. *Id.* ¶ 17.

69. *Id.*

70. *Id.* ¶ 234.

71. *Id.* ¶ 317.

72. *Id.*

73. *Id.* ¶ 38.

74. *Id.* ¶ 60.

75. Commission of the European Communities, *The Nairobi World Conference, Women of Europe Supplement No. 24*, 24 (April 1986), XI/154/86/EN.

76. The Security Council explains:

Chapter VII of the Charter of the United Nations provides the framework within which the Security Council may take enforcement action. It

ment options of international agreements such as CEDAW is one of the reasons this Article proposes that the Security Council invoke Chapter VII authority.

### 5. 1995 Beijing Conference

Despite the optimism generated by CEDAW, the early 1990s highlighted that there was still much work to do if the international community was to achieve gender equality. For example, Member States frequently utilized legal loopholes to make reservations on treaties that furthered women's initiatives. Further, the emergence of Bosnian rape camps and the Rwandan genocide in the early 1990s emphasized the gendered nature of war and its unequal impact on women in the international community.<sup>77</sup>

The Fourth Annual Conference for Women held in Beijing sought to directly confront those issues.<sup>78</sup> Organizers and attendees of the Conference presented success stories of women who were involved in their nation's peacebuilding efforts,<sup>79</sup> identifying for the first time the importance of women's involvement in security and peacebuilding. Participants included victims of the Northern Ireland "Troubles," Rwandan Genocide and Bosnian war survivors, and South African activists, whose homes had all been ravaged by war and who longed for peace.<sup>80</sup> These

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allows the Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and to make recommendations or to resort to non-military and military action to "maintain or restore international peace and security."

*Actions with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression*, UNITED NATIONS SEC. COUNCIL, <https://www.un.org/securitycouncil/content/repertoire/actions> [<https://perma.cc/743U-PYFH>].

77. See generally Barbara Bedont & Katherine Hall-Martinez, *Ending Impunity for Gender Crimes Under the International Criminal Court*, 6 BROWN J. WORLD AFFS. 65, 65-70 (1999).

78. ANDERLINI, *supra* note 22, at 5.

79. *Id.* at 6.

80. There were several notable participants at the Beijing Conference including Rwanda, Northern Ireland, and South Africa. Within these three Member States, individual women and civil society women's organizations became involved in the peace process of their nations. ANDERLINI, *supra* note 22, at 6. In the case of Northern Ireland, the Women's Coalition formed to combine all smaller women's groups, even across conflict lines. Because of this, the leaders of the Women's Coalition were able to represent women's interests in the Good Friday agreement. Similar achievements were made by other notable attendees of the Beijing Conference, their experiences being essential to the themes of the conference. These cases demonstrate that the inclusion

participants promoted the involvement of women in peacebuilding by sharing their experiences of working with others to forward the plight of women in situations of conflict.<sup>81</sup> The Beijing Conference launched a global revolution, inspiring women to step into the realm of global peace and security.<sup>82</sup>

Additionally, the conference produced the Beijing Declaration and Platform for Action,<sup>83</sup> a comprehensive plan for securing women's equality. The Conference's Declaration reflected the progress that had been made but also identified that there was still much work to do:

Absolute poverty and the feminization of poverty, unemployment, the increasing fragility of the environment, continued violence against women and the widespread exclusion of half of humanity from institutions of power and governance underscore the need to continue the search for development, peace and security and for ways of assuring people-centered sustainable development. The participation and leadership of the half of humanity that is female is essential to the success of that search. One of full and equal partnership will enable the world to meet the challenges of the twenty-first century.<sup>84</sup>

Despite the progress made at the Conference, including centering the stories of women and the production of the Declaration, not all States attended or participated.<sup>85</sup> For example, though the United States, Russia and China attended and participated, countries such as Saudi Arabia, Somalia, and the Federal Republic of Yugoslavia did not attend.<sup>86</sup> The lack of universal participation even after a decade of em-

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of women does not inhibit progress towards peace and security, but rather enhances it. Kate Fearon & Monica McWilliams, *Swimming Against the Mainstream: The Northern Ireland Women's Coalition*, in *GENDER, DEMOCRACY AND INCLUSION IN NORTHERN IRELAND* 117-37 (Carmel Roulston & Celia Davies eds., 2000); ANDERLINI, *supra* note 22, at 6.

81. ANDERLINI, *supra* note 22, at 6.

82. *Id.*

83. Fourth World Conference on Women, *Report of the Fourth World Conference on Women*, U.N. Doc. A/CONG.177/20/Rev.1 (Aug. 24, 1995).

84. *Id.* ¶ 17.

85. *See id.* ¶¶ 135-37 (listing state attendees of Beijing Conference).

86. *Id.* Some of the greatest perpetrators against women's rights were not in attendance at the conference or were forbidden attendance. Dianne Otto,  *Holding up Half the Sky, but for Whose Benefit?: A Critical Analysis of the Fourth World Conference on Women*, 6 *AUSTL. FEMINIST L.J.* 7 (1996).

phasizing women's issues, was sobering. Thus, while recognizing that positive steps were taken in the last decade, the Declaration highlighted the continuing theme that "[t]he popular participation of women in key decision-making as full and equal partners with men, particularly in politics, has not yet been achieved."<sup>87</sup>

## 6. International Criminal Court

Another milestone along the path to gender equality as a tool to accomplish world peace was the formation of the International Criminal Court ("ICC").<sup>88</sup> The ICC is based on the Rome Statute that was signed in 1998 and has gained widespread acceptance.<sup>89</sup> The Rome Statute was one of the first legal entities to seriously address WPS concerns. It specifically criminalizes "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity" as crimes against humanity when carried out as part of a widespread, systematic, and directed attack.<sup>90</sup> The Rome Statute also grants the ICC authority to prosecute individuals for genocide, war crimes, and the crime of aggression<sup>91</sup> on an international level.<sup>92</sup> Rape is explicitly included as war crime and the Statute allows all victims, including women, to procure reparations through court hearings. For example, a recent ICC case convicted former Congolese rebel commander Bosco Ntaganda on charges of rape and sexual violence among other

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87. Fourth World Conference on Women, *supra* note 83, at 9.

88. Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 38544, [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVIII-10&chapter=18&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-10&chapter=18&lang=en) [<https://perma.cc/NRA8-PRMM>] [hereinafter Rome Statute].

89. "123 countries are States Parties to the Rome Statute of the International Criminal Court. Out of them 33 are African States, 19 are Asia-Pacific States, 18 are from Eastern Europe, 28 are from Latin American and Caribbean States, and 25 are from Western European and other States." *The States Parties to the Rome Statute*, INT'L CRIM. CT., [https://asp.icc-cpi.int/en\\_menus/asp/states%20parties/pages/the%20states%20parties%20to%20the%20rome%20statute.aspx](https://asp.icc-cpi.int/en_menus/asp/states%20parties/pages/the%20states%20parties%20to%20the%20rome%20statute.aspx) [<https://perma.cc/D7CS-R58C>].

90. Rome Statute, *supra* note 88, at art. 7, ¶ 1(g).

91. Article 8 *bis* in the Amendments to the Rome Statute adopted in Kampala defines the individual crime of aggression as the planning, preparation, initiation or execution by a person in a leadership position of an act of aggression. This crime must also be in violation of the Charter of the United Nations. UNITED NATIONS, AMENDMENTS TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT (2010), [https://asp.icc-cpi.int/iccdocs/asp\\_docs/RC2010/AMENDMENTS/CN.651.2010-ENG-CoA.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/RC2010/AMENDMENTS/CN.651.2010-ENG-CoA.pdf) [<https://perma.cc/YG6G-VQ7X>].

92. Rome Statute, *supra* note 88, at art. 5.

crimes.<sup>93</sup> This and other subsequent cases are a clear step in the right direction.<sup>94</sup>

### B. UNSCR 1325

Concurrent with these pre-UNSCR 1325 developments, social science research that drew connections between international peace and security and the treatment of women by individual States began to gain recognition.<sup>95</sup> As mentioned earlier in the Article, the work by Valerie Hudson and others has been groundbreaking in this area in drawing a correlation between the security and equal treatment of women within a country and the overall peacefulness of that country.<sup>96</sup> While this relationship is not causal in nature, the strength of the correlation led many individuals and organizations to include this correlation within their call on the U.N. to formally recognize gender equality as vital to peace and security.<sup>97</sup> As will be discussed below, because the Security Council is the U.N. organ tasked with maintaining international peace and security, many advocates looked to the Security Council as a vehicle for creating real change.

In 2000, President of the Security Council, Anwarul Karim Chowdhury, became a firm supporter of gender equality and international peace and security after meeting with women's groups and familiarizing himself with WPS proposals.<sup>98</sup> In his speech on International Women's Day in March of 2000, Chowdhury explained:

Peace is inextricably linked with equality between women and men. [The Security Council] affirm[s] that the equal access and full participation of women in power structures and their full involvement in all efforts for the prevention and

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93. *Bosco Ntaganda*, COALITION FOR THE INT'L CRIM. CT., <http://www.coalitionfortheicc.org/cases/bosco-ntaganda> [<https://perma.cc/976F-YM97>].

94. Case summaries, INT'L CRIM. CT., <https://www.icc-cpi.int/cases> [<https://perma.cc/S9DC-RRR8>].

95. See *supra* Part II.A.

96. See HUDSON ET AL., *supra* note 14, at 95-118.

97. See, e.g., *Women and the Demography-Security Nexus*, *supra* note 6.

98. See Press Release, Security Council, Peace Inextricably Linked with Equality Between Women and Men Says Security Council, in Int'l Women's Day Statement, U.N. Press Release SC/6816 (Mar. 8, 2000).

resolution of conflicts are essential for the maintenance and promotion of peace and security.<sup>99</sup>

This moment marked a significant turning point in WPS discourse. This was the first speech by a Security Council President that was solely dedicated to WPS initiatives.<sup>100</sup>

On October 31, 2000 the Security Council unanimously adopted UNSCR 1325,<sup>101</sup> which charged Member States with providing protection for women and girls in war, and ensuring the full participation of women in humanitarian, conflict resolution, peacebuilding, and post-conflict reconstruction initiatives. Following the Beijing Conference on Women, CEDAW, and the Rome Statute, UNSCR 1325 marked a vital step towards the international recognition of women's rights.<sup>102</sup>

UNSCR 1325 introduced and emphasized three key themes: 1) women and girls are significantly and disproportionately impacted by armed conflict; 2) women need to be more involved in decision-making bodies with respect to the resolution of armed conflict and the peace-making process, including all aspects of U.N. work; and 3) as an accountability measure, the Secretary-General must create an annual report to the Security Council, measuring the success of the first two themes.<sup>103</sup>

Governments and scholars have described UNSCR 1325 as the first time the Security Council has given “full-fledged attention to gendered aspects of peace and conflict” and “one of the most crucial U.N. resolution on peace and security policy.”<sup>104</sup> Perhaps one of the most impactful messages in UNSCR 1325 was the Security Council's formal recognition of the connection between the treatment of women and international peace and security:

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99. *Id.* ¶ 1.

100. GENDER, HUMAN SECURITY AND THE UNITED NATIONS, *supra* note 43, at 12.

101. UNSCR 1325, *supra* note 2.

102. See Antal Berkes, *The Contribution of the Committee on the Elimination of Discrimination Against Women to the Implementation of Security Council Resolution 1325*, in GENDER, CONFLICT, PEACE, AND UNSC RESOLUTION 1325 43, 44 (Seema Shekhawat ed., 2018), where the author catalogues the references to UNSCR 1325 and subsequent UNSCRs on women, peace and security, and then argues that the CEDAW Committee has done much to “deepen” and “widen” UNSCR 1325's application.

103. UNSCR 1325, *supra* note 2, at n.16.

104. Seema Shekhawat, *Introduction*, in GENDER, CONFLICT, PEACE, AND UNSC RESOLUTION 1325 1, 4 (Seema Shekhawat ed., 2018).



[UNSCR 1325] reaffirm[s] the important role of women in the prevention and resolution of conflicts and in [peacebuilding], and stress[es] the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution.<sup>105</sup>

Though the research tying gender equality to international peace and security was in its early stages when the Resolution was adopted, this recognition was both groundbreaking and innovative, setting the stage for all subsequent UNSCRs and U.N. actions.<sup>106</sup> While it is easy to debate the international community's overall effectiveness in accomplishing the goals of UNSCR 1325, it would be near impossible to argue that the world is not a better place because of its passage, even if only because of the way the Security Council elevated the importance of gender equality by passing such a sweeping resolution.

### C. Post-UNSCR 1325 Actions

It is widely accepted that UNSCR 1325 has proven to be a starting point on the issue of gender equality and world peace rather than a final statement. In tandem with adoption of UNSCR 1325, the Interagency Network on Women and Gender Equality<sup>107</sup> established the Interagency Taskforce on Women, Peace and Security chaired by the Special Adviser on Gender Issues and Advancement of Women.<sup>108</sup> This taskforce devel-

105. UNSCR 1325, *supra* note 2, ¶ 5.

106. *What is UNSCR 1325?*, U.S. INST. OF PEACE, [https://www.usip.org/gender\\_peacebuilding/about\\_UNSCR\\_1325](https://www.usip.org/gender_peacebuilding/about_UNSCR_1325) [<https://perma.cc/8RVQ-5QP9>].

107. The U.N. explains:

The Inter-Agency Network on Women and Gender Equality (IANWGE) is a network of Gender Focal Points in United Nations offices, specialized agencies, funds and programmes and is chaired by UN Women . . . The Network has played a central role in promoting gender equality throughout the United Nations system and in follow-up to the Fourth World Conference on Women in Beijing in 1995 and the twenty-third special session of the General Assembly (Beijing +5) in 2000.

*Introduction*, INTER-AGENCY NETWORK ON WOMEN AND GENDER EQUAL., <https://www.un.org/womenwatch/ianwge/> [<https://perma.cc/L3WM-Y2WE>].

108. As of 2004, the Taskforce includes representatives from nineteen different organizations including the United Nations Children's Fund, and the U.N. Office for the Coordination of Humanitarian Affairs, as well as observers from International Or-

oped an action plan to implement UNSCR 1325, which included producing annual reports on the resolution's impact across the globe.<sup>109</sup>

While these annual reports aimed to compile lessons from attempts at the widespread implementation of UNSCR 1325's broad goals, they still did not reach every issue in the WPS agenda. As Natalie Florea Hudson noted:

Although 1325 represents the broadest political interpretation of gender issues ever articulated by the U.N. peace and security agenda, it does not, by any means, reflect the entire agenda of issues related to women, peace, and security. It does not for example address overall disarmament and the militarized approach of the U.N. system to establishing peace and security.<sup>110</sup>

Recognizing that UNSCR 1325 did not address all the issues related to gender equality and international peace and security, the Security Council has adopted several other<sup>111</sup> Security Council Resolutions dealing with WPS.<sup>112</sup> These resolutions are representative of the Security

organization for Migration and the NGO Working Group on Women, Peace and Security (Hague Appeal for Peace, International Alert, International Women's Tribune Centre, Women's Caucus for Gender Justice, Women's Committee on Refugee Women and Children, and Women's International League for Peace and Freedom). The Inter-Agency Taskforce on Women, Peace and Security was initiated in February 2001 to follow up on the implementation of Security Council Resolution 1325 adopted on 31 October 2000. *Taskforce on Women, Peace and Security*, INTER-AGENCY NETWORK ON WOMEN AND GENDER EQUALITY, <https://www.un.org/womenwatch/ianwge/activities/tfwpsecurity.htm> [<https://perma.cc/ED6Q-XZ54>].

109. The 2003 annual report described the achievements of the Taskforce in 2002 and includes information on needs assessment checklists, briefing notes for Security Council missions and analysis of the gender content of Secretary-General's reports to the Security Council. See Inter-Agency Network on Women and Gender Equality, *Rep. of the Second Session of the Inter-Agency Network on Women and Gender Equality*, U.N. Doc. IANWGE/2003/12/Rev.1 (Mar. 28, 2013).

110. GENDER, HUMAN SECURITY AND THE UNITED NATIONS, *supra* note 43, at 20 n.45.

111. S.C. Res. 2467 (Apr. 23, 2019) (calling for all Member States to implement specific, time-bound commitments to combat sexual violence, as the U.N. recognized the lack of progress in this area. It recognized the need for integration, response and elimination of sexual violence at the national level).

112. Peace Women explains:

In response to persistent pressure from civil society, the [UNSC] has adopted nine resolutions on [WPS]. These resolutions are: 1325 (2000); 1820 (2009); 1888 (2009); 1889 (2010); 1960 (2011); 2106 (2013); 2122 (2013); 2242 (2015), and 2467 (2019). These nine resolutions make up the [WPS] Agenda. They guide work to promote gender equali-

Council's continued belief in the correlation between gender treatment and international peace and security. For example, UNSCR 1889 states:

[The Security Council] [r]emain[s] deeply concerned about the persistent obstacles to women's full involvement in the prevention and resolution of conflicts and participation in post-conflict public life, as a result of violence and intimidation, lack of security and lack of rule of law, cultural discrimination and stigmatization, including the rise of extremist or fanatical views on women, and socio-economic factors including the lack of access to education, and in this respect, recognizing that the marginalization of women can delay or undermine the achievement of durable peace, security and reconciliation.<sup>113</sup>

Cumulatively, the resolutions form an international legislative framework that reinforces existing global commitments, treaties, and resolutions on women's rights<sup>114</sup> and supports and encourages additional actions designed to further gender equality. The following sections detail two particular actions that have reinforced the call to action initiated by UNSCR 1325. National Action Plans provide a means for a State to self-evaluate its own compliance with the suggestions of UNSCR 1325 and subsequent resolutions. The Secretary-General's 2015 report on UNSCR 1325 reflects the U.N.'s review of general compliance with UNSCR 1325.

### 1. National Action Plans (NAPs)

NAPs are individualized state plans to bring about the better treatment of women and girls, often with particular respect to their

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ty and strengthen women's participation, protection and rights across the conflict cycle, from conflict prevention through post-conflict reconstruction.

*The Resolutions*, PEACE WOMEN, <http://peacewomen.org/why-WPS/solutions/resolutions> [<https://perma.cc/A7BA-3EG8>].

113. S.C. Res. 1889, ¶ 8 (Oct. 5, 2009).

114. U.N. WOMEN, WOMEN AND PEACE AND SECURITY: GUIDELINES FOR NATIONAL IMPLEMENTATION 2 (2010), <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2012/10/wpssourcebook-02b-planon-womenpeacesecurity-en.pdf?la=en&vs=1154> [<https://perma.cc/3J42-5JNC>].

treatment in and around armed conflict.<sup>115</sup> NAPs allow for both state specificity as well as state accountability. Though not mandated by the text of UNSCR 1325, NAPs grew out of the evidence that little was happening across the international community to actually promote the intent of the resolution. First the President of the Security Council in 2002<sup>116</sup> and then the Secretary-General in 2004<sup>117</sup> “noted the lack of progress for women and girls and invited U.N. Member States to prepare NAPs in order to take strong steps toward implementing UNSCR 1325.”<sup>118</sup>

Jan Marie Fritz, a sociologist who specializes in the status of women and girls within the international community, has highlighted the elements of an effective NAP, including seventeen points that would be especially “useful for government and civil society representatives to discuss” when formulating or revising NAPs.<sup>119</sup> Fritz goes on to recommend “four important topics that need to be specifically considered when drafting or implementing a[] NAP”: Human rights, just peace, political will, and human security.<sup>120</sup> Further details regarding NAP implementation are discussed in Section III.A.

115. Jan Marie Fritz, *Creating or Improving a National Action Plan Based on U.N. Security Council Resolution 1325*, in GENDER, CONFLICT, PEACE, AND UNSC RESOLUTION 1325 83 (Seema Shekhawat ed., 2018); Melody Hood, *What are National Action Plans and Why Do They Matter?*, INCLUSIVE SEC. (Aug. 10, 2016), <https://www.inclusivesecurity.org/2016/08/10/national-action-plan-matter/#:-:text=They%3A,can%20hold%20governments%20accountable%3B%20and> [https://perma.cc/7WM2-MSLZ].

116. The Security Council “encourage[d] Member States . . . and other relevant actors, to develop clear strategies and action plans with goals and timetables” and “to develop targeted activities, focused on the specific constraints facing women and girls in post-conflict situations.” U.N. Security Council, *Statement by the President of the Security Council*, ¶ 9 U.N. Doc. S/PRST/2002/32 (Oct. 31, 2002).

117. U.N. Security Council, *Statement by the President of the Security Council*, ¶ 10 U.N. Doc. S/PRST/2004/40 (Oct. 28, 2004). This statement “welcome[d] the efforts of Member States in implementing resolution 1325 (2000) at the national level, including the development of national action plans, and encourage[d] Member States to continue to pursue such implementation.” *Id.*

118. Fritz, *supra* note 115, at 83.

119. The seventeen points are listed as follows: 1) The publication date of the plan; 2) The length of the plan; 3) Organization of the plan; 4) Plan leadership; 5) Responsibilities regarding action points; 6) Communication among those developing and delivering the plan; 7) Advertising and promotion of UNSR 1325 and the NAP; 8) Gender perspective and language; 9) Age sensitivity and other considerations; 10) Geographical focus; 11) Contents of the NAP in comparison to what is specified in the UNSCR 1325 and the supporting resolutions; 12) Priorities; 13) Collecting needed data; 14) Continuing evaluation; 15) Reporting and feedback; 16) Financial allocation; and 17) Monitoring by civil society. *Id.* at 85-89.

120. *Id.* at 89-90.

## 2. 2015 Report on UNSCR 1325

In October 2015, the U.N. held a high-level review of UNSCR 1325 to mark the Resolution's fifteenth anniversary and continue to advance its goals.<sup>121</sup> From this review, U.N. Women<sup>122</sup> published a report titled *Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of United Nations Security Council Resolution 1325*, mapping progress and challenges in achieving gender equality, and making recommendations for advancing the goals of the resolution.<sup>123</sup> The global study was primarily authored by Radhika Coomaraswamy, a lawyer, diplomat, and human rights advocate who served as the Under-Secretary-General of the United Nations, and Special Representative for Children and Armed Conflict. It states:

[UNSCR 1325 has taken] a significant step to integrate gender into the overall framework of conflict and war. The historic resolution marked the international body's full-fledged attention to gendered aspects of peace and conflict and its commitment toward an active involvement of women in the formal peace processes. The resolution was one of the most crucial U.N. resolutions on peace and security policy as it

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121. COOMARASWAMY, *supra* note 15, at 13.

122. U.N. Women is a U.N. entity dedicated to gender equality and the empowerment of women. See *About U.N. Women*, U.N. WOMEN, <https://www.unwomen.org/en/about-us/about-un-women> [<https://perma.cc/4CZS-WWJ2>].

123. The Report explains:

Resolution 1325 was one of the crowning achievements of the global women's movement and one of the most inspired decisions of the United Nations Security Council. The recognition that peace is inextricably linked with gender equality and women's leadership was a radical step for the highest body tasked with the maintenance of international peace and security. Turning the Security Council's words into actions and real change has been a central pillar of U.N. Women's work since the entity was created, and the driving passion of many other actors since the resolution was adopted as a global norm in 2000. And yet there remains a crippling gap between the ambition of our commitments and actual political and financial support. We struggle to bridge the declared intent of international policymaking and the reality of domestic action in the many corners of the world where resolution 1325 is most needed.

COOMARASWAMY, *supra* note 15, at 5.

mandated to Member States to adopt specific policies to ensure women's active involvement in peace.<sup>124</sup>

The study lists several "signs of progress" in the treatment of women.<sup>125</sup> For example, progress was noted with regards to including women in the peace process.<sup>126</sup> First, the Report notes that "there has been an appreciable rise in the number of references to women in the text of peace agreements"<sup>127</sup> and that the references to women are "more likely to be found in agreements where the United Nations was involved."<sup>128</sup> Additionally, the Report found that "it has become a more routine practice both to include gender experts in mediation support teams, and to consult with women's organizations"<sup>129</sup> and that, while moving "at far too slow a rate . . . the overall participation of women in peace processes is inching upwards."<sup>130</sup>

Ultimately, the global study presents a mixed verdict. Despite the transformative potential of UNSCR 1325 (and its progeny) and the many successes identified, the 2015 global study finds that "much of the progress toward the implementation of resolution 1325 continues to be

124. Shekhawat, *supra* note 104, at 4.

125. COOMARASWAMY, *supra* note 15, at 44.

126. *Id.* at 40-44.

127. *Id.* at 44. The Report also notes:

Out of 1,168 peace agreements signed between January 1990 and January 2014, only 18 per cent make any references to women or gender. But if one looks at before and after the adoption of resolution 1325, the difference is notable. Prior to 2000, only 11 per cent carried such a reference. Post-2000, this percentage has increased to 27 per cent. While this is still a low percentage, the trend nevertheless is encouraging. As monitored by the UN Department of Political Affairs using the global indicators on implementation of 1325, 50 per cent of peace agreements signed in 2014 included references relevant to women, peace and security, up from 22 per cent in 2010.

*Id.* (citations omitted).

128. *Id.*

129. *Id.* at 45. The Report also stated:

According to DPA's monitoring, gender expertise was provided by the UN to 88 per cent of relevant processes in 2013 but only 67 per cent in 2014. This is nevertheless a significant improvement from 36 per cent in 2011. Similarly, 88 per cent of all peace processes with UN engagement in 2014 included regular consultations with women's organizations, a notable rise from 50 per cent in 2011.

*Id.* (citations omitted).

130. *Id.*

measured in ‘firsts,’ rather than as standard practice.”<sup>131</sup> Even after fifteen years, multiple UNSCRs and reports, worldwide conferences and other initiatives, and the emphasis on, creation of, and implementation of a significant number of NAPs, a gap remains between “the ambition of our commitments and actual political and financial support. We struggle to bridge the declared intent of international policymaking with the reality of domestic action in the many corners of the world where resolution 1325 is most needed.”<sup>132</sup>

Cumulatively,<sup>133</sup> all initiatives to date reflect a commitment to and an urgency in recognizing gender equality as part of human security. However, they also demonstrate a lack of effective, meaningful change. The diplomatic language, impressive discussions, and assurances rarely result in actual action to correct the situation.<sup>134</sup> The U.N.’s reports and recommendations evidence a lack of sufficient implementation. This lack of meaningful implementation is the most vexing problem precluding real progress in the area of gender equality.

### III. INEFFECTIVENESS OF UNSCR 1325-GENERATED EFFORTS

*“As far as gender equality is concerned, the gap, between theory and practice, rhetoric and exercise, is apparent through the formulation and implementation of the much acclaimed United Nations Security Council Resolution 1325.”*<sup>135</sup>

Despite the efforts catalogued above, the international community still faces, and at times perpetuates, incredibly difficult hurdles to achieving gender equality. As stated in the United Nation’s recent Sustainable Development Goal 5, Gender Equality, “discriminatory laws and social norms remain pervasive, women continue to be underrepresented at all levels of political leadership, and one in five women and girls between the ages of fifteen and forty-nine report experiencing physical or sexual violence by an intimate partner within a twelve-month pe-

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131. *Id.* at 14.

132. *Id.* at 5.

133. It is important to note that another supporting U.N. document following 1325 was Sustainable Development Goals 5: Achieve Gender Equality, Empowering All Women and Girls. *Goal 5: Achieve Gender Equality and Empower All Women and Girls*, UNITED NATIONS: SUSTAINABLE DEVELOPMENT GOALS, <https://www.un.org/sustainabledevelopment/gender-equality/> [<https://perma.cc/55Z9-JX7H>].

134. Shekhawat, *supra* note 104, at 1.

135. *Id.*

riod.”<sup>136</sup> That these problems persist even twenty years after the passage of UNSCR 1325 is an indictment of the efforts the international community has previously relied on to make meaningful change.

Without the Security Council invoking the mandatory language in Chapter VII of the U.N. Charter to pass its resolutions on gender equality, Member States are not legally obliged to implement resolutions like UNSCR 1325. This has led some to conclude that “inconsistent implementation of [the] resolution . . . continues to be a major challenge”<sup>137</sup> at least in part because the non-obligatory nature of these Security Council resolutions allows each State to decide how or even whether to implement a resolution.<sup>138</sup> Countries are asked to “consider” actions and are “called upon” or “urged” to undertake them, rather than required to act under their Article 24 and 25 obligations, as discussed below in Part IV.A. Indeed, many Member States’ policymakers ignore, or refuse to recognize, the gendered nature of peace and security.<sup>139</sup>

In order to address these inefficiency concerns and better implement UNSCR 1325, the Security Council issues annual reports on the WPS agenda progress. In aggregating the reports, six general areas of concern emerge as prominent obstacles to UNSCR 1325’s implementation.<sup>140</sup> These obstacles are: 1) the lack of political support and commitment; 2) cultural norms; 3) cooperation between government and

136. *Goal 5: Achieve Gender Equality and Empower All Women and Girls*, *supra* note 133 (“Gender equality is not only a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world.”).

137. U.N. Secretary-General, *Women and Peace and Security: Rep. of the Secretary-General*, ¶ 18, U.N. Doc.S/2008/622 (Sep. 25, 2008) [hereinafter 2008 Report on Women and Peace and Security].

138. F. Belgin Gumru & Jan Marie Fritz, *Women, Peace and Security: An Analysis of the National Action Plans Developed in Response to UN Security Council Resolution 1325*, 4 SOCIETIES WITHOUT BORDERS 209, 211 (2009).

139. *See* Oudraat, *supra* note 42, at 617.

140. A 2002 Security Council Report found:

In his first report to the Security Council on women, peace and security (S/2002/1154), the Secretary-General recognized that resolution 1325 (2000) had galvanized Member States, the United Nations system and civil society, including at the grass-roots level. Although the contributions of women to peacemaking and peacebuilding had not yet been fully recognized, the suffering of women and girls during armed conflict and its aftermath had already been widely documented. In the same report, the Secretary-General also noted that international law and existing strategies and guidelines provided a strong framework for addressing gender perspectives within the context of armed conflict and its aftermath.

U.N. Secretary-General, *Women and Peace and Security: Rep. of the Secretary-General*, ¶ 2, U.N. Doc. S/2010/498 (Sep. 28, 2010).



civil society; 4) education and resources on the benefits of UNSCR 1325; 5) lack of involvement of women in the peace process; and 6) no guarantees of security and safety for civil groups.<sup>141</sup> These areas, particularly those addressing cultural and patriarchal hurdles within nations, are near-impossible to overcome without specific, concerted efforts.<sup>142</sup>

### A. *Political Support and Commitment*

Because the Security Council did not adopt UNSCR 1325 and subsequent WPS resolutions under Chapter VII, States are left to determine for themselves whether or how to implement them. As Oudraat commented:

Implementation of UNSCR 1325 and advancement of the women, peace, and security agenda has suffered from the lack of political commitment at the highest levels; the lack of strong systematic empirical evidence to infuse policy and inform best practices; and the lack of integration into mainstream international relations and security studies, including the lack of conceptual frameworks other than feminist conceptions of peace and security.<sup>143</sup>

This conclusion is reflected in the lack of Member States that have created a NAP.<sup>144</sup> NAPs provide a mechanism for governments to set priorities in WPS policy-making and enable civil society to hold governments accountable,<sup>145</sup> but currently less than 42% of Member States have a NAP.<sup>146</sup>

When States do enact NAPs, they are often inadequate or misguided. Though obviously well-meaning, “the action plans of developed

141. For a complete list of the annual reports concerning WPS, as well as those specific to each resolution that came out of 1325, see *UN Documents for Women, Peace and Security: Secretary-General's Reports*, S.C. REPORT, [https://www.securitycouncilreport.org/un\\_documents\\_type/secretary-generals-reports/?ctype=Women%2C%20Peace%20and%20Security&cbtype=women-peace-and-security](https://www.securitycouncilreport.org/un_documents_type/secretary-generals-reports/?ctype=Women%2C%20Peace%20and%20Security&cbtype=women-peace-and-security) [https://perma.cc/V67G-AY35].

142. Compare HUDSON ET AL., *supra* note 14, at CP11, Map 11 (revealing areas of the world that have accepted WPS initiatives, yet do not put it to practice) *with* Press Release, *supra* note 12.

143. Oudraat, *supra* note 42, at 613.

144. *National-Level Implementation*, PEACE WOMEN, <https://www.peacewomen.org/member-states> [https://perma.cc/JWH5-59AK].

145. Hood, *supra* note 115.

146. *National-Level Implementation*, *supra* note 144.

countries are almost exclusively focused on actions in other, conflict-affected countries . . . [and] are often defined without the input of civil society organizations or the people subsequently affected by the respective interventions.”<sup>147</sup> States with externally-focused NAPS often miss the need for domestic improvement.

Even States that enact NAPs and attempt to increase the participation of women in the political sphere face domestic problems. According to a 2016 Security Council Report, when women do enter the political sphere, they are frequently attacked or persecuted, both by their colleagues and by their constituents, if they do not behave according to gendered norms.<sup>148</sup> Often, there is little response by the government to protect these women. This is further evidence of the lack of political support for and commitment to UNSCR 1325. The U.N. has attempted to fix this problem. For example, in 2015, the U.N. provided technical assistance for gender-sensitive electoral processes and helped establish quotas for women leaders in the Afghanistan and Mali governments.<sup>149</sup> However, the Report further illustrates that while setting quotas and providing election assistance is a step forward in national politics, data indicates that “women’s representation rates tend to be much lower [in local government] than at national levels.”<sup>150</sup> Involving women in political processes ultimately begins at the local level.<sup>151</sup> Without local involvement, women’s political advancements in their respective countries will remain incomplete.<sup>152</sup>

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147. Corey Barr, *The Commodification of Intervention*, in GENDER, CONFLICT, PEACE, AND UNSC RESOLUTION 1325 107, 113 (Seema Shekhawat ed., 2018).

148. A Report of the Secretary-General on Women and Peace and Security explains:

I am concerned about continued threats and attacks against, and the persecution of, those who do not conform to gender norms, whether they be women political leaders, journalists or human rights defenders, women justice and security sector personnel, civil society leaders or those perceived to be lesbian, gay, bisexual, transgender and intersex.

U.N. Secretary-General, *Women and Peace and Security: Rep. of the Secretary-General*, ¶ 36, U.N. Doc. S/2016/822 (Sept. 29, 2016).

149. *Id.* ¶¶ 52-53.

150. *Id.* ¶ 54.

151. *See id.*

152. Compare HUDSON ET AL., *supra* note 14, at CP8, map 5, with *Women and Peace and Security: Rep. of the Secretary-General*, *supra* note 148, at ¶ 54.

### B. Cultural Norms

Patriarchal and sociocultural stereotypes prevent women from engaging in peace and governing processes and from obtaining legal rights.<sup>153</sup> Social scientist Seema Shekhawat argues that “[a]ssumptions about what roles women are appropriate for are more than often constraining. Such assumptions are not incidental[;] they are ingrained. They are carefully crafted by the patriarchal system to produce and reproduce the superiority of a particular gender.”<sup>154</sup> Shekhawat points to stereotypes in many Nigerian communities that women are victims, which, combined with a strict division of labor, exclude women from the peace process.<sup>155</sup> Scholar Corey Barr agrees and argues that “one key flaw [of UNSCR 1325] is that the resolution presents women only in gendered terms with no regard to the way gender intersects with elements of identity, such as race, class, ethnicity, sexuality, disability, age, religion, and so forth.”<sup>156</sup> Shekhawat further laments that this standard approach of “homogenizing women” fails to consider “the issue of interpretation, localization, adaptation, and implementation.”<sup>157</sup>

Legally homogenizing half the world’s population leads to a myriad of discriminatory practices, many based in both international and domestic law. For example, sociocultural stereotypes around sexual violence often have ramifications when women try to enter government, but these stereotypes are specific to each community.<sup>158</sup> According to the Security Council’s 2008 Annual Report, certain traditional and cul-

153. Onyinyechukwu Onyido, *The Disconnection Between Theory and Practice: Achieving Item 8b of United Nations Security Council Resolution 1325*, in GENDER, CONFLICT, PEACE, AND UNSC RESOLUTION 1325 143, 146-47 (Seema Shekhawat ed., 2018).

154. Shekhawat, *supra* note 104, at 10.

155. Onyido explains:

In many Nigerian communities, sociocultural stereotypes of women as victims, combined with a strict division of labor in the public and private spheres, prevent women from entering official peace processes. Most women in these communities are illiterate. They are excluded from activities that make up normal peace processes in the peace and security agenda . . . .

Onyido, *supra* note 153, at 146-47.

156. Barr, *supra* note 147, at 108-09.

157. Shekhawat, *supra* note 104, at 9.

158. See U.N. Secretary-General, *Conflict-Related Sexual Violence*, ¶ 16, U.N. Doc. A/66/657/S/2012/33 (Jan. 13, 2012) (finding “cultural practices and norms also tend to take precedence over written legislation in some contexts, where the burden of responsibility and proof falls on the victim”).

tural norms engender a “culture of impunity on which sexual violence thrives.”<sup>159</sup> In Côte d’Ivoire, justice for victims is hindered by traditional and cultural norms that accept rape, female genital mutilation, and forced marriage.<sup>160</sup> Similarly, in Timor-Leste, “cases of sexual violence are frequently ‘resolved’ through traditional dispute resolution mechanisms, which are not always victim-centered and are not regulated by a legal framework.”<sup>161</sup> Not all women are the same throughout the world or even within a small community—they represent a vast array of interests, problems, capabilities, attributes, and talents. Yet attempts to diversify the legal description and treatment of women encroach on long and deeply held traditions and commitments. Professor Fionnuala Ni Aoláin argues:

One of the reasons there has been such a tepid response to addressing gender in a holistic way in counter-terrorism is that to do so comprehensively required undoing male privilege, and this task has in a multitude of realms proven to be highly fraught for human rights practitioners over many decades.<sup>162</sup>

While gendered stereotypes due to cultural and patriarchal influences are pervasive in certain states,<sup>163</sup> they are also present in international resolutions and policymaking. Scholar Nadine Puechguirbal explains that U.N. documents consistently refer to women as “vulnerable individuals” which perpetuates their position as victims.<sup>164</sup> Certainly, the majority of sexual assault and sexual violence survivors are women.<sup>165</sup>

159. 2008 Report on Women and Peace and Security, *supra* note 137, ¶ 7.

160. U.N. Secretary-General, *Seventeenth Progress Rep. of the Secretary-General on the United Nations Operation in Côte d’Ivoire*, ¶ 41, U.N. Doc. S/2008/451 (Jul. 10, 2008).

161. U.N. Secretary-General, *Rep. of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (for the Period from 8 January to 8 July 2008)*, ¶ 28, U.N. Doc. S/2008/501 (July 29, 2008).

162. Fionnuala Ni Aoláin, *Masculinity, Jihad and Mobilization*, JUST SEC. (Oct. 18, 2016), <https://www.justsecurity.org/33624/masculinity-jihad-mobilization/> [<https://perma.cc/5V8B-8D4M>].

163. Compare HUDSON ET AL., *supra* note 14, at Map 5, with Hudson, *supra* note 6.

164. Nadine Puechguirbal, *Discourses on Gender, Patriarchy and Resolution 1325: A Textual Analysis of UN Documents*, 17 INT’L PEACEKEEPING 172, 172-73 (2010).

165. WORLD HEALTH ORG., GUIDELINES FOR MEDICO-LEGAL CARE FOR VICTIMS OF SEXUAL VIOLENCE 8 (2003), <https://apps.who.int/iris/bitstream/handle/10665/42788/924154628X.pdf;jsessionid=4D7DD1BD18484B0E012E3481DAF0B747?sequence=1> [<https://perma.cc/MW8W-8WV5>]. The WHO found that “[r]esearch indicates that the vast majority of victims of sexual violence are female, most pe-

However, persistently referring to women, as a class, as victims does not lend itself to elevating women as leaders in the peacemaking process.

Treating women as victims is a theme throughout the WPS UNSCRs. For example, UNSCR 1820 contains the following language that is repeated in almost every U.N. document concerning WPS:

[C]ivilians account for the vast majority of those adversely affected by armed conflict . . . women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instill fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group; and . . . sexual violence perpetrated in this manner may in some instances persist after the cessation of hostilities.<sup>166</sup>

There is no doubt that this is factually true. But the international community should reflect on whether it is including women in the peace and security process merely because they are victims. Corey Barr recognizes that labeling women as victims may be factual and done in good faith, but argues that it may do more harm than good:

[D]onor aid given in the name of implementing the [WPS] agenda has in some cases served to impede women's agency, which may serve to limit their ability to play influential roles in peace processes. Additionally, by putting more emphasis on women's need for protection, aid projects have cemented the idea of women as victims, thus in many cases entrenching traditional gender dynamics and providing limited support to local level priorities that may focus on other areas.<sup>167</sup>

He continues, "While not seeking to diminish the suffering of women and girls, the phrase of women and girls being 'most affected' is reminiscent of the much critiqued grouping of 'women and children' in earlier literature and legal documents. Both phrasings infantilize women and serve to undermine their agency."<sup>168</sup>

The indeterminacy of the term "most affected" may lead to false conclusions about the reality of the impact of armed conflict on women

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trators are male, and that most victims know their attacker. This does not, however, negate that fact that sexual violence against men and boys is also widespread." *Id.*

166. S.C. Res. 1820, ¶ 5 (June 19, 2008); *see also* Barr, *supra* note 147.

167. Barr, *supra* note 147, at 108.

168. *Id.* at 117.

and girls. For example, it is clear that more men die in armed conflicts than women,<sup>169</sup> so, if “most affected” is limited to being killed, the assertion is clearly not true. However, if “most affected” relates to sexual violence, it is true that women suffer sexual violence more often than men during times of armed conflict.<sup>170</sup>

Ultimately, describing all women, and only women, as victims of violence is not only a generalization—women can also be perpetrators of violence and may take an active part in hostilities—but also unproductive as it seldom serves to place women in a position to actually deal with the issues that concern them in a meaningful way. Thus, trumpeting women as victims only, often serves to limit the effectiveness of efforts to implement gender equality.

### *C. Cooperation Between Government and Civil Society*

The U.N. strives to engender dialogue between civil society groups, international charitable organizations, and local, national, and international governing organizations in order to ensure civil society and other stakeholder groups are informed, supported, and represented in public decision-making processes. For example, the United Nations Office for West Africa (“UNOWA”) and the U.N. Integrated Peacebuilding Office in Sierra Leone (“UNIPSIL”) have institutionalized yearly dialogues between senior leaders and women, and the Special Committee on Peacekeeping Operations has called on the Department of Peacekeeping Operations to establish regular open days as well.<sup>171</sup> The U.N. has increasingly encouraged the involvement of civil society actors, especially women’s groups, in implementing UNSCR 1325, as echoed in the 2011 Annual Security Council Report:

Special envoys and mediators should meet with women leaders and peace activists at the earliest possible moment in mediation processes. As a standard operating procedure, they should establish regular and structured consultations with

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169. CHRISTIN ORMHAUG, PATRICK MEIER & HELGA HERNES, ARMED CONFLICT DEATHS DISAGGREGATED BY GENDER, PRIOR PAPERS 3 (2009).

170. *Sexual Violence and Armed Conflict: United Nations Response*, WOMEN2000, Apr. 1998, at 2.

171. See U.N. Secretary-General, *Women and Peace and Security: Rep. of the Secretary-General*, ¶ 31, U.N. Doc. S/2011/598 (Sept. 29, 2011) [hereinafter 2011 Report on Women and Peace and Security].

women's civil society groups and broker engagement between parties to armed conflict and women's groups.<sup>172</sup>

However, it is imperative to keep in mind the balance that should be struck between utilizing top-down approaches and civil society movements to achieve WPS goals, as sometimes top-down approaches have a limited reach.<sup>173</sup>

Additionally, assistance from international donors and organizations may be an effective way to advance gender equality, but may also undercut local government's responsibilities thus harming the long-term infrastructure necessary for permanent change. In realistic but condemning tones, Barr writes:

Donor-driven policies fundamentally undermine the ownership that partner countries have of technical assistance aid, but also weaken government ownership by overwhelming government coordination and management capacities. Because governments are overwhelmed with the proliferation of projects, management is largely in the hands of donors, effectively weakening both the ownership of partner governments in the implementation of the allocated development aid and the harmonization of donor-funded projects.<sup>174</sup>

172. *Id.* ¶ 21.

173. Larry Attree, Celia McKeon, and Konstantin Bärwaldt explain:

The United States, European countries, the United Nations, and others are backing military, technical, financial, and diplomatic “security” initiatives all over the world, but their efforts often end up worsening and perpetuating the conflicts they are supposed to stop or prevent. All the while, the people worst affected have very little say about what’s going on around them. Of course, these two problems are closely connected. In response, many peace and rights activists around the world are considering how to change the dynamic and ensure people affected by conflict are listened to in the debates that shape international security interventions.

Larry Attree et al., *The International Security Echo-Chamber: Getting Civil Society into the Room*, JUST SEC. (July 31, 2019), <https://www.justsecurity.org/65243/the-international-security-echo-chamber-getting-civil-society-into-the-room/> [<https://perma.cc/K7MV-QH6Z>]; see also Jiang Jue, *Women's Rights and Gender Equality in China: The Development and Struggle in Chains of State Feminism*, in HANDBOOK ON HUMAN RIGHTS IN CHINA 253, 253-73 (Sarah Biddulph & Joshua Rosenzweig eds., 2019).

174. Barr, *supra* note 147, at 113.

Barr argues that if donors manage the projects, those projects are not only unlikely to receive full government cooperation, but they are also unlikely to be meshed with other government initiatives.<sup>175</sup> Assuming Barr is correct, getting government and civil society to work together to achieve gender equality in order to further international peace and security will require a change in how international and domestic entities currently perceive and work with each other if true change is to be accomplished.

#### D. *Education and Awareness of UNSCR 1325*

Most governments, U.N. personnel, and civil society organizations are unaware of or misunderstand what UNSCR 1325 entails.<sup>176</sup> The U.N. did not engage in substantial public awareness campaigns during the early 2000s, leading to either a late implementation or a complete lack of implementation in the subsequent decade.<sup>177</sup> While the 2015 Security Council Annual Report “reaffirmed” the U.N.’s commitment to encouraging implementation of UNSCR 1325,<sup>178</sup> as of August 2019, only 42% of Member States had a NAP.<sup>179</sup> Most Member States still lack a complete understanding of what the Resolution entails, causing the MIT International Studies Group to recommend that the U.N. focus on increasing “the visibility of UNSCR 1325 as a peace and security framework.”<sup>180</sup>

Some of this education and awareness work has been done by civil society groups. For example, one of the key players during the early formulation of the NAP initiative was the collective network of women’s groups and peace organizations known as WE Act 1325.<sup>181</sup> The group’s central focus is to aid the formation and implementation of NAPs by all Member States.<sup>182</sup> WE Act 1325 educates countries about

175. *See id.*

176. SANAM NARAGHI ANDERLINI ET AL., WHAT THE WOMEN SAY: PARTICIPATION AND UNSCR 1325 3 (2010), [https://www.usip.org/sites/default/files/Gender/What\\_the\\_Women\\_Say.pdf](https://www.usip.org/sites/default/files/Gender/What_the_Women_Say.pdf) [<https://perma.cc/6HC4-RQVQ>].

177. *Id.*

178. S.C. Res. 2242, ¶ 1 (Oct. 13, 2015).

179. *National-Level Implementation*, *supra* note 144.

180. ANDERLINI ET AL., *supra* note 176, at 6.

181. *See Women Engaged in Action on 1325 (WE Act 1325)*, GLOB. NETWORK OF WOMEN PEACEBUILDERS, <https://web.archive.org/web/20190509113738/https://gnwp.org/members-directory-and-map/women-engaged-in-action-on-1325-we-act-1325/> (last visited Dec. 22, 2019).

182. *Id.*



UNSCR 1325 and empowers other women's human rights organizations to action through visibility and support.<sup>183</sup>

Other creative campaigns can provide important means to implement equality during armed conflict. For example, the ICRC spread awareness about the laws of armed conflict through publishing video-games.<sup>184</sup> More emphasis needs to be placed on educating individuals on WPS initiatives, rather than jumping straight into implementation. Awareness methods such as these, aimed at civil society and young people, work towards the goal of educating Member States as a whole.

### E. *The Peace Process*

UNSCR 1325 and its progeny focus on the inclusion of women in the peace process; specifically, UNSCR 1325 notes that the peacebuilding process is in need of more equal gender representation to accomplish WPS goals.<sup>185</sup> This Article does not dispute the value of UNSCR 1325's approach. New evidence compiled by the International Peace Institute shows:

When women are included in a peace process, the peace agreement that results is 20 percent more likely to last at least

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183. *See id.*

184. *Video Games and Law of War*, INT'L COMM. OF THE RED CROSS (Sept. 27, 2013), <https://www.icrc.org/en/doc/resources/documents/film/2013/09-28-ihl-video-games.htm> [<https://perma.cc/D53M-FCBE>].

185. UNSCR 1325:

1. Urges Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict; 2. Encourages the Secretary-General to implement his strategic plan of action (A/49/587) calling for an increase in the participation of women at decision making levels in conflict resolution and peace processes . . . 8. Calls on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia: (a) The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction; (b) Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements; (c) Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary.

UNSCR 1325, *supra* note 2, ¶¶ 1-2, 8.

two years. Women's participation has an even greater impact in the longer term: An agreement is 35 percent more likely to last for fifteen years if women participate in its creation."<sup>186</sup>

The focus on gender equality in peacemaking processes may not only improve women's standing in society, but also preserve lasting peace.

Despite the demonstrated value of women in the peace process, the exclusion of women remains a problem today. For example, in peace negotiations around the world between the years 1992 and 2011, only 2% of chief mediators and 9% of negotiators were women.<sup>187</sup> Shekhawat, noting the lack of progress, argues:

[I]t is necessary to take cognizance of the sad reality of the near-invisibility of women in the formal peace negotiations. In this masculinized process, more than often, women are not even accorded decorative presence. Resolution 1325, even with all its good intentions, has not been able to bring the essential change.<sup>188</sup>

Though there are undoubtedly many causes for the reluctance towards gender inclusion, at least one of these is the perception of women's value by those at the state and community level. Researchers in this area have found that "off-the-record discussions with peacemakers, decision makers, and those who support and shape these processes show that many remain resistant to including women due to a lack of evidence about the value that women's participation can bring and fear that it may derail the process."<sup>189</sup> An educational process for government officials and others involved in peace processes that challenges cultural and historical biases may be required to overcome this lack of understanding and encourage more equal representation.<sup>190</sup>

However, even an increase in the number of women peacemakers will not necessarily lead to gender equality in the peacebuilding process. As Shekhawat argues, involving women in the peace process does not

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186. MARIE O'REILLY ET AL., REIMAGINING PEACEMAKING: WOMEN'S ROLES IN PEACE PROCESSES 12 (2015).

187. PABLO CASTILLO DIAZ & SIMON TORDJMAN, WOMEN'S PARTICIPATION IN PEACE NEGOTIATIONS: CONNECTIONS BETWEEN PRESENCE AND INFLUENCE 3 (2nd ed. 2012); COOMARASWAMY, *supra* note 15, at 14, 45.

188. Shekhawat, *supra* note 104, at 4.

189. O'REILLY ET AL., *supra* note 186, at 2.

190. See generally P.J. Henry, *Institutional Bias*, in THE SAGE HANDBOOK OF PREJUDICE, STEREOTYPING AND DISCRIMINATION 426-40 (John F. Dovidio et al. eds., 2010).

necessarily guarantee that their voices will be meaningfully heeded.<sup>191</sup> Similar research from the U.N. report *Making Women Count—Not Just Counting Women: Assessing Women’s Inclusion and Influence on Peace Negotiations* states:<sup>192</sup>

[M]aking women’s participation count is more important than merely counting the number of women included in the peace process . . . a strong presence of women, even directly at the negotiation table, does not automatically translate into their ability to assert a strong influence. It is the level of influence that women can assert on the process that makes a difference, not only their presence by numbers.<sup>193</sup>

Lasting peace is one of the most direct measures of successful international peace and security initiatives. Recalling research stated in the subsection above, the inclusion of women in peace processes increases the percentage of years peace lasts within a society.<sup>194</sup> Ensuring equal or near equal representation of women meaningfully participating in the peace process is not just a good idea—it is a requisite to achieving greater world peace.

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191. Shekhawat, *supra* note 104, at 7 (citing THANIA PAFFENHOLZ ET AL., MAKING WOMEN COUNT—NOT JUST COUNTING WOMEN: ASSESSING WOMEN’S INCLUSION AND INFLUENCE ON PEACE NEGOTIATIONS 21 (Leigh Pascal ed., 2016)).

192. PAFFENHOLZ ET AL., *supra* note 191, at 5, 55.

193. Shekhawat, *supra* note 104, at 7 (quoting PAFFENHOLZ ET AL., *supra* note 191, at 7). Catherine Powell also argues:

A democratic legitimacy account of inclusive security can reframe the WPS debate, because legitimacy turns on enhancing the *representativeness* of the process as a whole, rather than opening up opportunities for women per se or expecting that women will “perform” in a particular way . . . the primary aim becomes legitimizing the exercise of power rather than enhancing the opportunities of individuals or a group. A legitimacy framework creates a new theoretical model in which gender balance is a *collective* democratic aim, rather than an equal opportunity right for a specific group.

Powell, *supra* note 4, at 271, 319.

194. See *supra* Part III.E; see also Olivia Holt-Ivry, *Women Make Peace Stick*, FOREIGN POL’Y (Aug. 24, 2018), <https://foreignpolicy.com/2018/08/24/women-make-peace-stick/> [<https://perma.cc/9GAZ-FSX7>].

### F. *Security and Safety for Civil Groups*

Even if Member States are aware of UNSCR 1325, many ignore it due to a lack of respect for international and/or domestic WPS laws.<sup>195</sup> When civil society groups try to implement WPS measures, they are often met with severe governmental opposition, including risks to the freedom and safety of their members. Thus, implementing UNSCR 1325 is an unsafe endeavor for many.<sup>196</sup>

The 2004 Annual Report for UNSCR 1325 explained that while some understand the contribution that women make to the peacebuilding process, the “obstacles to [women’s] participation and to the systematic incorporation of gender perspectives remain.”<sup>197</sup> And, according to the 2017 Security Council Annual Report, these obstacles are more difficult to overcome but even more important in situations of “violent extremism.”<sup>198</sup>

Two brief examples from Russia and Northern Ireland illustrate the difficulties of implementing UNSCR 1325 in the face of domestic opposition.

195. HUDSON ET. AL., *supra* note 14, at Map 1.

196. See COOMARASWAMY, *supra* note 15, at 306.

197. U.N. Secretary-General, *Women and Peace and Security: Rep. of the Secretary-General*, ¶ 28, U.N. Doc. S/2004/814 (Oct. 13, 2004). The Report states:

While the impact of the contribution of women to informal peace processes is well known, obstacles to their participation and to the systematic incorporation of gender perspectives in formal peace processes remain. The number of women who participate in formal peace processes remains small. The leadership of parties to conflict is male-dominated and men are chosen to participate at the peace table. The desire to bring peace at any cost may result in a failure to involve women and consider their needs and concerns.

*Id.* [hereinafter 2004 Report on Women and Peace and Security].

198. U.N. Secretary-General, *Women and Peace and Security: Rep. of the Secretary-General*, ¶ 48, U.N. Doc. S/2017/861 (Oct. 16, 2017). The Report states:

I commend efforts to strengthen networks of women’s civil society organizations operating in contexts of violent extremism and terrorism and to ensure that their perspectives feed into broader work on prevention and response, including that of the Women’s Alliance for Security Leadership in support of innovative civil society-led efforts to prevent violent extremism.

*Id.*

## 1. Russia: A Case Study

In 2000, Russia voted for UNSCR 1325,<sup>199</sup> but has done little else to support the goals of the Resolution. For example, Russia has not created a NAP to implement the goals of UNSCR 1325. Russia also has not made any financial commitments to WPS initiatives, unlike *all* other Security Council members, which have contributed at least minimally.<sup>200</sup> In fact, in comparison with other Security Council members, Russia is rated as either the lowest or next to lowest in every category analyzed by the Women's International League for Peace and Freedom, which ranks international support for WPS initiatives.<sup>201</sup>

In addition to the lack of support shown internationally, Russia has also done little domestically to support the goals of UNSCR 1325. Rather, recent changes to domestic law have actually diminished the human security of women in Russia. For example, in 2017, the government passed a law permitting a domestic violence offender to be fined rather than face criminal charges if he or she was a first-time offender.<sup>202</sup> These laws are contrary to UNSCR 1325.

Another indication of the Russian government's counterproductive measures towards UNSCR 1325 is its apparent lack of support and at times animosity for groups supporting gender equality. This is illustrated by the staggeringly small number of women's movements dedicated to addressing gender inequality issues in Russia.<sup>203</sup> The primary reason for this small number is government opposition to women's initiatives and the propaganda the government has disseminated about these groups.<sup>204</sup> In fact, the government has not just adopted a *laissez faire* at-

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199. *Country/Region Profile of: Russia*, PEACE WOMEN, <https://www.peacewomen.org/profile/country-region-profile-russia> (last visited Sept. 5, 2020).

200. *See Security Counsel WPS Scorecard*, PEACE WOMEN, <https://www.peacewomen.org/scorecards> [<https://perma.cc/J9EL-SR7Q>].

201. *Id.*

202. Indra Ekmanis, *Russia's Growing Feminist Movement*, WEEK (June 22, 2019), <https://theweek.com/articles/846866/russias-growing-feminist-movement> [<https://perma.cc/KRV2-4KRW>].

203. *See* Loretta Marie Perera, *Russia's Feminists Work to Smash the Taboo*, MOSCOW TIMES (Feb. 21, 2018), <https://www.themoscowtimes.com/2018/02/21/smashing-the-taboo-a60587> [<https://perma.cc/PU2M-9QGE>] (interviewing activist Natalia Timofeyeva, who explains that "feminism is still a dirty word" in Russia).

204. Ekmanis, *supra* note 202 ("In a country where the concept of feminism remains at best socially neutral and at worst a 'mortal sin,' activists fighting for gender equality under the banner of feminism have to take success where they can get it. And it's often fleeting.").

titude towards women's movements and issues; it has engaged in active opposition against them.<sup>205</sup>

In 2017, Russian women, with the support of the EU Delegation to Russia, began organizing festivals such as "Fem Fest," which gave Russian women a broad platform to air their grievances on topics such as Putin's decriminalization of domestic violence and the 27% pay gap between Russian women and men.<sup>206</sup> Grassroots organizers of movements such as these faced political and legal consequences, while supporters also lost their jobs, received fines, or were even imprisoned for participating.<sup>207</sup>

What little success has been accomplished Russian women have achieved through isolated online victories<sup>208</sup> and through informal networks bringing women's issues to the forefront.<sup>209</sup> One such online victory came in connection to the rape case of Diana Shurygina.<sup>210</sup> Following her interview on a popular Russian talk show, *Pust Govorvat*, a Russian division of Burger King used her likeness in an ad, making light of her case to sell cheeseburgers.<sup>211</sup> This ad led to the popularization of Diana memes attached to a derogatory nickname: "Shkurygina" (her last name combined with the contemptuous nickname for girls and women, "shkura").<sup>212</sup> A social media outcry led to the ad ultimately being taken down.<sup>213</sup> Following the murder of nineteen-year-old Tatiana Strakhova at the hands of her ex-boyfriend in 2018 another isolated victory fol-

205. *Id.*

206. Daria Litvinova, *Festival Tries to Reclaim Russian Feminism—But is it Radical Enough?*, GUARDIAN (Mar. 15, 2017), <https://www.theguardian.com/world/2017/mar/15/feminist-festival-russia-womens-rights-international-womens-day> [<https://perma.cc/7T4W-T4RA>].

207. Ekmanis, *supra* note 202 (reporting that the band Pussy Riot was detained after a provocative performance at Moscow's Christ the Savior Cathedral, which was directly linked to feminism).

208. Amie Ferris-Rotman, *Putin's War on Women*, FOREIGN POL'Y (Apr. 9, 2018), <https://foreignpolicy.com/2018/04/09/putins-war-on-women/> [<https://perma.cc/G3H8-EW6Z>].

209. *See id.* For example, President Putin joked about rape recently, boasted that his country's prostitutes are the best in the world, and has put down women for menstruating. *Id.*

210. *Diana Shurygina*, EVERIPEDIA, [https://everipedia.org/wiki/lang\\_en/diana-shurygina](https://everipedia.org/wiki/lang_en/diana-shurygina) [<https://perma.cc/3HXM-C2JU>].

211. Maria Stoliarova, Burger King использовал образ несовершеннолетней Шурыгиной в рекламе и нарвался на критику, MEDIALEAKS (Feb. 16, 2017), <https://medialeaks.ru/1602mms-burger-king-ispolzoval-obraz-nesovershennoletney-shuryiginoy-v-reklame-i-narvalsya-na-kritiku/> [<https://perma.cc/R4WR-DH3Q>].

212. *Diana Shurygina*, *supra* note 210.

213. Stoliarova, *supra* note 211.

lowed: Hundreds of Russian women subsequently posed on social media wearing only their underwear alongside the hashtag #ThisIsNoReasonToKill.<sup>214</sup>

Both of these incidents led to attention on the issues at hand, but were merely embryonic in their widespread momentum towards a #MeToo movement for women in Russia. To make matters worse, misogyny has gone increasingly unchecked since the popular rise of Putin.<sup>215</sup> Just to name a few of his public displays of misogyny, the Russian leader has joked about rape at public events, has boasted that his country's prostitutes are the best in the world, and has mocked women for menstruating.<sup>216</sup> In 2017, while being interviewed for a documentary series, Putin told a filmmaker: "I am not a woman, so I don't have bad days."<sup>217</sup> When his remarks went viral, columnist Svetlana Feoktistova described this as part of the broader anti-woman culture in Russia: "[M]en allow themselves to use insulting expressions, engage in sexual harassment, and make dirty jokes, thinking that it is normal and that if a woman is offended, she lacks a sense of humor."<sup>218</sup> This was happening parallel to the Harvey Weinstein cases in the United States where similar language to that which Feoktistova criticized was being used to support Weinstein.<sup>219</sup>

The prevalence of misogynistic attitudes even at the highest government levels coupled with the lack of government support for women's issues through hostile laws and active oppression has resulted in Russian women hesitating to speak about gender equality, let alone advocate for WPS initiatives.

In summary, although Russia voted for UNSCR 1325, the Russian government has not implemented 1325, has enacted laws contrary to UNSCR 1325, and has blocked the small victories of grassroots movements through intimidation and retribution tactics. Hence, despite Russian women's successes and desire to create grassroots movements that promote gender equality, very little progress has been made.

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214. Ferris-Rotman, *supra* note 208.

215. *See id.*

216. *Id.*

217. Ester Bloom, *Putin: 'I Am Not a Woman, so I Don't Have Bad Days'*, CNBC: MAKE IT (June 6, 2017), <https://www.cnbc.com/2017/06/06/putin-i-am-not-a-woman-so-i-dont-have-bad-days.html> [<https://perma.cc/RRD4-HUPV>].

218. Julia Glum, *Sexual Harassment Does Not Happen in Russia Because of Vladimir Putin, Pageant Queens Say*, NEWSWEEK (Oct. 13, 2017), <https://www.newsweek.com/vladimir-putin-sexual-harassment-harvey-weinstein-684230>.

219. Ferris-Rotman, *supra* note 208.

## 2. Northern Ireland: A Case Study

The violent conflict of Northern Ireland between Catholic and Protestant populations known as “the Troubles” hit its climax between the 1960s and the 1990s.<sup>220</sup> The major violence came to a stop in 1998 with the creation of the Good Friday Agreement.<sup>221</sup> Northern Ireland’s male dominated and highly gendered politics left women to pursue influence through alternative paths.<sup>222</sup> At the time the government leadership viewed community development such as food provision, after-school programs, and educational outreach as secondary to the politics of the conflict. While the violence of the Troubles claimed the political attention of the men, women began to claim community development projects as their own. “A formal community and voluntary sector developed out of this movement and within it a sophisticated, largely self-taught, and professional class of women community workers.”<sup>223</sup> In the 1980s this community action formed into women’s centers, places that focused on women’s needs across Northern Ireland and within each local community.<sup>224</sup> As a result, the Northern Ireland Women’s Coalition (“NIWC”), the grassroots movement behind much of this community development, gained enough political momentum to be represented at the Good Friday peace agreement through their elected representatives, Monica McWilliams and Pearl Sagar.<sup>225</sup>

The NIWC built a bridge across the two sides of the conflict during the Troubles and focused on a higher group identity as women: Numbers from both sides strengthened their cross-community organization.<sup>226</sup> Catholic and Protestant women’s groups led by Monica McWilliams and May Blood joined forces during the peace talks and

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220. Joseph M. Brown & Gordon C. McCord, *Northern Ireland’s Troubles Began 50 Years Ago. Here’s Why They Were So Violent*, WASH. POST. (Aug. 22, 2019), <https://www.washingtonpost.com/politics/2019/08/22/why-were-troubles-so-bloody-this-helps-explain/> [<https://perma.cc/B72E-SUX8>].

221. The Northern Ireland Peace Agreement, Apr. 10, 1998, 2114 U.N.T.S. 473.

222. Valerie Morgan, Professional Lecture at the University of Ulster: Peacemakers? Peacekeepers?—Women in Northern Ireland 1969-1965 (Oct. 25, 1995) <https://cain.ulster.ac.uk/issues/women/paper3.htm>. [<https://perma.cc/4RLV-PUBJ>].

223. Amanda E. Donahoe, “Wee Women’s Work:” Women and Peacebuilding in Northern Ireland 3 (Aug. 1, 2013) (unpublished Ph.D. dissertation, University of Denver) (on file with the Digital Commons at the University of Denver).

224. *Id.* at 64.

225. Cera Murtagh, *A Transient Transition: The Cultural and Institutional Obstacles Impeding the Northern Ireland Women’s Coalition in its Progression from Informal to Formal Politics*, 23 IRISH POL. STUD. 21, 28 (2008).

226. Donahoe, *supra* note 223, at 90-108.



were able to secure support from women across Northern Ireland to secure votes for their female representatives.<sup>227</sup> The NIWC achieved many victories in the agreement; particularly important was a separate clause affirming the right of full and equal political participation for women.<sup>228</sup>

Following the agreement, the media in Ireland advocated for the concept of “women of peace, men of war.”<sup>229</sup> Although the title “women of peace” seems positive, the effect of that nomenclature actually created a perception of women as “passive” in the legislative arena.<sup>230</sup> Thus, as in many societies recovering from internal or external conflict, the women of Northern Ireland had to contend with a return to traditional gender roles once the conflict concluded.<sup>231</sup> Women were quickly removed from the peace process when men deployed social norms to shape the issues and designate decision makers; societal attitudes were reflected in phrases such as “the men will take it from here” following the agreement.<sup>232</sup>

When the U.N. passed UNSCR 1325, the women of Northern Ireland did not benefit from the implementation due to the U.K. and Northern Ireland’s shared government.<sup>233</sup> For example, the U.K. excluded Northern Ireland from its NAP.<sup>234</sup> The lack of support eventually led to the dissolution of the NIWC and the leadership of the women’s movement in Northern Ireland.<sup>235</sup>

Without the implementation of UNSCR 1325 and subsequent resolutions pertaining to WPS, the progress that women had achieved in

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227. *Id.*

228. See Murtagh, *supra* note 225, at 21-40; Maria-Adriana Deiana, *Women’s Citizenship in Northern Ireland after the 1998 Agreement*, 28 IRISH POL. STUD. 399, 403 (2013).

229. Carmel Roulston, *Equal Opportunities for Women*, in NORTHERN IRELAND POLITICS 139-46 (Arthur Aughey & Duncan Morrow eds., 1996).

230. *Id.*

231. See Deiana, *supra* note 228, at 404.

232. See Jamille Bigio et. al., *Women’s Participation in Peace Negotiations in Northern Ireland Made Them Less Likely to Fail*, THE HILL (Apr. 13, 2018), <https://thehill.com/opinion/international/383059-womens-participation-in-peace-negotiations-in-northern-ireland-made> [<https://perma.cc/B8JX-BD8N>].

233. See Melanie Hoewer, *UNSCR 1325 in Northern Ireland: Opportunities, Challenges and Complexities*, E-INT’L REL. (Oct. 2, 2012), <https://www.e-ir.info/2012/10/02/implementing-uns-cr-1325-in-northern-ireland-opportunities-challenges-and-complexities/> [<https://perma.cc/9H7H-JHLY>].

234. *Id.*

235. *Women’s Participation in the Peace Process Website Interactive: Northern Ireland*, COUNCIL ON FOREIGN REL., <https://www.cfr.org/interactive/womens-participation-in-peace-processes/northern-ireland> [<https://perma.cc/UB9M-NQ7K>].

the Good Friday agreement disappeared.<sup>236</sup> Currently, Northern Ireland is still fighting for women's representation in government and peace-building roles.<sup>237</sup> Northern Ireland is not included in the U.K. National Action Plan on Women, Peace, and Security.<sup>238</sup> This is due to the fact that although the NAP recognizes domestic strategies as complementary, its focus remains outward on conflicts the U.K. is involved in internationally.<sup>239</sup> This means the impact of gendered violence within the country, such as the status of women in Northern Ireland, remain unaddressed.<sup>240</sup> The situation is compounded because the U.K. government denies that there was a significant conflict in Northern Ireland and will therefore not apply UNSCR 1325.<sup>241</sup> Further, there is currently no formal requirement, either independently under UNSCR 1325 or from the U.K. Government, for the Northern Ireland Executive to implement, coordinate, and report on matters concerning WPS.<sup>242</sup>

Post-agreement Northern Ireland presents a clear example that despite the hopes of political and social transformation with the increase of women's leadership in government, the transition to peace instead reinforced the traditional gender inequalities through politics.<sup>243</sup> Ultimately, women were written out of the legacy of the conflict and were seen as bystanders instead of participants, leaving their stories and needs unheard once an initial agreement was reached. Without clear political support for women's groups, women's leadership during the peace process may not last.

#### IV. PROPOSED SOLUTIONS

*"The [UNSCR 1325] is arguably not binding on Member States and hence its upholding as a global charter of women's rights becomes circumscribed.*

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236. NORTHERN IRELAND WOMEN'S EUROPEAN PLATFORM, AN INQUIRY INTO THE POSITION OF WOMEN IN NORTHERN IRELAND SINCE THE PEACE AGREEMENT: SUMMARY REPORT 3-5 (2015), <http://gaps-uk.org/wp-content/uploads/2015/03/NIWEP-Westminster-Summary-Report.pdf> [<https://perma.cc/7FEF-8JB5>].

237. See Deiana, *supra* note 228, at 404.

238. NORTHERN IRELAND WOMEN'S EUROPEAN PLATFORM, *supra* note 236.

239. *National Action Plan: United Kingdom*, PEACE WOMEN, <https://www.peacewomen.org/nap-uk> [<https://perma.cc/87AL-P272>].

240. *Id.*

241. *Id.*

242. See NORTHERN IRELAND WOMEN'S EUROPEAN PLATFORM, *supra* note 236, at 3-4.

243. Deiana, *supra* note 228, at 405.

*Even though Resolution 1325 is international law, it is 'soft,' not 'hard.' And this soft law can advance gender equality only in a limited fashion.*"<sup>244</sup>

After decades of work trying to reorient international and domestic law to achieve greater gender equality in order to secure increased international peace and security, there is some success but still much room for improvement. The most recent WPS UNSCR is illustrative of how far the international community has come since the 1990s with the creation of CEDAW and UNSCR 1325 in 2000. However, critics have lamented the significant compromises that were made to the resolution.

In April of 2019, the Security Council continued to augment UNSCR 1325 by passing UNSCR 2647, which addressed the needs of sexual violence victims in armed conflict. Compared to previous WPS U.N. initiatives, UNSCR 2467 is more forceful and articulate in calling for action. For example, the Resolution reaffirms that Member States "bear the primary responsibility to respect and ensure the human rights of all persons within their territory."<sup>245</sup> The Resolution also "affirm[s] the primary role of Member States to implement fully the relevant provisions of Security Council resolutions on women, peace, and security."<sup>246</sup>

The Resolution's first operative paragraph "reiterates its *demand* for the complete cessation with *immediate effect* by all parties to armed conflict of all acts of sexual violence and its call for these parties to make and implement *specific time-bound commitments* to combat sexual violence."<sup>247</sup> Further, in paragraph 10, the Security Council "urges existing Sanction Committees . . . to *apply targeted sanctions* against those who perpetrate and direct sexual violence in conflict."<sup>248</sup>

All Security Council members voted in favor of the resolution, with the exception of Russia and China.<sup>249</sup> While Resolution 2467 utilized more forceful and less equivocal language, the original resolution was even more demanding on States. The original text established a Working Group of Security Council members on sexual violence in conflict as a formal enforcement mechanism, it "adopted language on

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244. Shekhawat, *supra* note 104, at 9.

245. S.C. Res. 2467, ¶ 1 (Apr. 23, 2019).

246. *Id.*

247. *Id.* (emphasis added).

248. *Id.* ¶ 10 (emphasis added).

249. Press Release, Security Council, Security Council Adopts Resolution Calling upon Belligerents Worldwide to Adopt Concrete Commitments on Ending Sexual Violence in Conflict, U.N. Press Release SC/13790 (Apr. 23, 2019), <https://www.un.org/press/en/2019/sc13790.doc.htm> [<https://perma.cc/AW2T-KSGD>].

referral of cases to the International Criminal Court, emphasized the vulnerability of LGBTI groups,<sup>250</sup> and it contained provisions expressing the need for comprehensive reproductive health services for survivors.<sup>251</sup> Due to reservations by the United States and others, however, these provisions were eliminated from the current resolution.<sup>252</sup>

Though the language of UNSCR 2467 is a step forward, it remains fundamentally flawed as a truly effective measure to achieve world peace through gender equality. First, it is mired in the situation of armed conflict and perpetuates the “women as victims” paradigm that fails to recognize that women have a role to play in their own right, not just as victims. More importantly, as with all the other UNSCRs and other WPS actions thus far, it carries no legal force. There are no mandatory, legally enforceable claims on Member States from this UNSCR. Indeed, the lack of legally binding requirements on Member States is not only the most significant inadequacy of this Resolution, but it is also the single most important failure of the WPS agenda so far.

Although the efforts to equalize gender representation in international peace and security have been extensive, they have not yet elevated WPS issues to the level of importance they both deserve and require. The ineffectiveness of UNSCR 1325 to actually bring about real change has caused Shekhawat to speculate that “it raises a question related to the legitimacy and effectiveness of the United Nations as the apex international organization.”<sup>253</sup>

The international community will continue to debate whether the failure of the WPS agenda to create real change is a signal of the U.N.’s ineffectiveness. At the very least, this failure draws attention to the ineffectiveness of the mechanisms the U.N., and particularly the Security Council, currently apply to further international peace and security through gender equality. This section will identify specific actions needed if the international community is really going to work toward international peace and security through a meaningful commitment to gen-

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250. Sara E. Davies & Jacqui True, *Pitfalls, Policy, and Promise of the U.N.’s Approach to Conflict-Related Sexual Violence and the New Resolution 2467*, PRIO (May 23, 2019), <https://blogs.prio.org/2019/05/pitfalls-policy-and-promise-of-the-uns-approach-to-conflict-related-sexual-violence-and-the-new-resolution-2467/> [<https://perma.cc/8JZU-6KV8>].

251. Liz Ford, *U.N. Waters Down Rape Resolution to Appease US’s Hardline Abortion Stance*, GUARDIAN (Apr. 23, 2019), <https://www.theguardian.com/global-development/2019/apr/23/un-resolution-passes-trump-us-veto-threat-abortion-language-removed> [<https://perma.cc/MX2U-YEBA>].

252. *Id.*

253. Shekhawat, *supra* note 104, at 4.

der equality. These actions include using the Security Council's mandatory authority to make complying with UNSCR 1325 and the WPS agenda legally binding on the States. This would include: 1) requiring Member States to validate and strengthen grassroots organizations; 2) the U.N. creating a template for a NAP and mandating its domestic adoption by Member States; and 3) establishing basic minimum domestic law guarantees with respect to women's equality with which all Member States must comply.

#### A. *Chapter VII and International Peace and Security*

The most important step the U.N. can take to further international peace and security through gender equality is to move UNSCR 1325 and its progeny into Chapter VII, legally binding Member States to apply these Security Council resolutions.

Article 1 of the Charter of the United Nations lists the purposes of the organization, the first of which is “[t]o maintain international peace and security.”<sup>254</sup> The organization is then divided into a number of organs and subsidiary organs, including a General Assembly where every nation sits through its representative, each having one vote;<sup>255</sup> an International Court of Justice made up of fifteen judges sitting for nine year terms that rotate through regionally associated representatives from any country in the General Assembly;<sup>256</sup> and an executive body known as the Security Council.<sup>257</sup> The Security Council is made up of regionally elected representatives from fifteen nations, five of which have permanent seats—the People's Republic of China, France, the Russian Federation, the United Kingdom, and the United States.<sup>258</sup> These “permanent five” also have a veto on non-administrative actions.<sup>259</sup>

The primary missions of these bodies are described in the Charter. The Security Council's mission is stated in Article 24:

In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace

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254. U.N. Charter art. 1, ¶ 1.

255. U.N. Charter arts. 9-22.

256. U.N. Charter arts. 92-96.

257. U.N. Charter arts. 23-32.

258. U.N. Charter art. 23, ¶ 1.

259. U.N. Charter art. 27, ¶ 3.

and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.<sup>260</sup>

This delegation of authority is followed in Article 25 by a commitment by every Member State to abide by the decisions of the Security Council: “[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.”<sup>261</sup>

It is clear under Articles 24 and 25 that in the allocation of power across the different organs of the U.N., the responsibility for international peace and security lies squarely with the Security Council and that the Member States have an obligation to follow its decisions.<sup>262</sup> This language from Articles 24 and 25, including the term “decisions,” has become a key indicator of the seriousness with which the Security Council takes action and also a key trigger for the other Member States when determining their legal obligations under the Charter.<sup>263</sup>

The Security Council carries out its responsibility for the protection of international peace and security through both peaceful, voluntary means and forceful, non-voluntary means. Chapter VI, comprising Articles 33-38, is titled “Pacific Settlement of Disputes”<sup>264</sup> and lays out a number of methods by which the Security Council can gather information, investigate, and then “recommend” solutions to States to help resolve conflicts.<sup>265</sup> However, none of these are binding on the Member States.<sup>266</sup> It is important to note that all the actions described in Part II that were generated by the Security Council, including UNSCR 1325 and subsequent UNSCRs, were taken under the authority of Chapter VI. As with all other Chapter VI actions, they had no binding effect on States.

In contrast, Chapter VII is titled “Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression.” The first Article in this chapter, Article 39, states: “The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to main-

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260. U.N. Charter art. 24 ¶ 1.

261. U.N. Charter, art. 25.

262. MALCOLM SHAW, *INTERNATIONAL LAW* 947 (8th ed. 2017).

263. *Role of the Security Council*, UNITED NATIONS PEACEKEEPING, <https://peacekeeping.un.org/en/role-of-security-council> [<https://perma.cc/RU66-QYAD>].

264. U.N. Charter arts. 33-38.

265. *See id.*; SHAW, *supra* note 262, at 935.

266. *See* SHAW, *supra* note 262, at 935.

tain or restore international peace and security.”<sup>267</sup> Article 39 is thus a trigger for the remainder of the Chapter. Once the Security Council has determined that there is a “threat to the peace, breach of the peace, or act of aggression,” it has the power to take forceful action under the remaining articles of the Chapter, including requiring certain actions by Member States.<sup>268</sup>

Articles 41 and 42 lay out options that the Security Council can utilize once it has determined that there is either a breach or a risk to international peace and security.<sup>269</sup> These options include non-forceful (but mandatory) means in Article 41, such as interruption of economic relations and the severance of diplomatic relations.<sup>270</sup> While not forceful, options implemented under Chapter VII are binding and mandatory on the Member States.<sup>271</sup>

If Article 41 measures have not worked or if the Security Council believes they “would be inadequate,”<sup>272</sup> Article 42 authorizes the Security Council to take “action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.”<sup>273</sup> This authorization was initially to be accomplished by forces “made available” to the U.N. by Member States that would act under U.N. command.<sup>274</sup> These forces

267. U.N. Charter art. 39.

268. See SHAW, *supra* note 262, at 936.

269. See U.N. Charters, art. 41-42.

270. U.N. Charter art. 41 states:

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

*Id.*

271. See SHAW, *supra* note 262, at 936.

272. U.N. Charter art. 42, ¶ 1 states:

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

273. *Id.*

have never been formed or used.<sup>275</sup> Rather, the Security Council has created a practice of “authorizing” Member States to carry specific actions in accordance with the decisions contained in the UNSCR.<sup>276</sup>

There is a long history of the Security Council finding a “threat to the peace, breach of the peace or act of aggression” under Article 39<sup>277</sup> and then taking action with Article 41 measures or Article 42 measures.<sup>278</sup> Many of the Security Council’s Chapter VII actions have been directly related to uses of force, such as the 1990 authorization for a coalition of States to expel Iraq from Kuwait.<sup>279</sup> Others have centered on issues of equal treatment rather than on the use of force, such as the UNSCRs rejecting apartheid in South Africa.<sup>280</sup>

In every case under Chapter VII, the key threshold finding is the Security Council finding a “threat to the peace, breach of the peace, or act of aggression” under Article 39.<sup>281</sup> It is this finding that triggers not only the potential remedies under Chapter VII, but also triggers Member States’ mandatory compliance with those remedies because of the delegation in Articles 24 and 25. To make real progress with respect to WPS, the Security Council must now exercise its Chapter VII authority, after determining in accordance with Article 39 that gender inequality and the mistreatment of women and girls is a threat to international peace and security, and require specific actions under Article 41 as will be discussed below.

### B. *Chapter VII and Women, Peace, and Security*

As described earlier in this Article, the Security Council has taken numerous actions with respect to WPS. Starting with UNSCR 1325, a string of UNSCRs have articulated strong messages about the value of women in international peace and security and the numerous key roles

274. U.N. Charter art. 43, ¶ 1.

275. *Actions with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression*, U.N. SEC. COUNCIL, <https://www.un.org/securitycouncil/content/repertoire/actions#:~:text=Acts%20of%20Aggression-,Actions%20with%20Respect%20to%20Threats%20to%20the%20Peace%2C%20Breaches%20of,Council%20may%20take%20enforcement%20action> [https://perma.cc/23DX-3HHC].

276. *See, e.g.*, S.C. Res. 660 (Aug. 2, 1990); S.C. Res. 661 (Aug. 6, 1990).

277. U.N. Charter art. 39.

278. SHAW, *supra* note 262, at 946-56.

279. *See* S.C. Res. 660, *supra* note 276; S.C. Res. 661, *supra* note 276.

280. *See* S.C. Res. 418 (Nov. 4, 1977); S.C. Res. 569 (July 26, 1985); S.C. Res. 591 (Nov. 28, 1986).

281. U.N. Charter art. 39.



women can and should play.<sup>282</sup> The U.N. more broadly has taken numerous initiatives to emphasize the role of women in international peace and security and to encourage Member States to adopt similar measures.<sup>283</sup> However, none of these Security Council actions have been taken under the mandatory authority of Chapter VII.

In the cases cited above, the Security Council signals its reliance on Chapter VII to the Member States by clearly invoking that authority in its resolutions. The language “Acting under Chapter VII” or similar words will appear in the resolution to indicate to the Member States that the Security Council is about to invoke its authority under Chapter VII and the Member States’ responsibility to comply under Articles 24 and 25.<sup>284</sup> States have learned to look for that language in order to know that the Security Council is making such an invocation.

These words have never been used in conjunction with a resolution on WPS. In other words, while previous resolutions have been laudable in content, the Security Council has yet to utilize its most important and effective authority to accomplish real advances in gender treatment.<sup>285</sup> It is time for that to change.

If the Security Council and the international community really believe that gender equality is the best indicator of peacefulness and that States will become more peaceful if they treat women equally, then the Security Council should make a finding under Article 39 about a threat to the peace: States who continue to mistreat women, making up half of their population, pose a threat to international peace and security. Once the trigger is activated, the Security Council is then able to utilize the rest of Chapter VII to accomplish its WPS agenda.

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282. See *supra* Section II.C.

283. See *supra* Section II.A.

284. See, for example, a succession of U.N. Security Council Resolutions dealing with the situation in Sudan and South Sudan where the Security Council signaled its mandatory authority by “Acting under Chapter VII.” S.C. Res. 1591 (Mar. 29, 2005); S.C. Res. 1651 (Dec. 21, 2005); S.C. Res. 1665 (Dec. 4, 1961); S.C. Res. 1672 (Apr. 25, 2006); S.C. Res. 1713 (Sept. 29, 2006); S.C. Res. 1779 (Sept. 28, 2007); S.C. Res. 1841 (Oct. 15, 2008); S.C. Res. 1891 (Oct. 13, 2009); S.C. Res. 1945 (Oct. 14, 2010); S.C. Res. 1982 (May 17, 2011); S.C. Res. 2035 (Feb. 17, 2012); S.C. Res. 2091 (Feb. 14, 2013); S.C. Res. 2138 (Feb. 13, 2014); S.C. Res. 2200 (Feb. 12, 2015); S.C. Res. 2265 (Feb. 10, 2016); S.C. Res. 2340 (Feb. 8, 2017); S.C. Res. 2400 (Feb. 8, 2018); S.C. Res. 2455 (Feb. 7, 2019); and S.C. Res. 2508 (Feb. 11, 2020).

285. As discussed above, Articles 24 and 25 of the U.N. Charter make their compliance with Chapter VII legally binding. See U.N. Charter arts. 24-25; SHAW, *supra* note 262, at 947.

The next natural step in the progression of women, peace, and security that began even before UNSCR 1325 is a UNSCR that invokes Chapter VII and directs Member States to take action. Utilizing its authority under Article 41, subsequent to an invocation of Article 39, the Security Council can mandate very specific actions that every country would be forced to comply with or be in violation of its obligations under international law. While the Security Council has previously made some steps forward in achieving true gender equality and reaping the natural benefits to international peace and security, an invocation of Article 39 followed by mandated measures under Article 41 is the next logical and necessary step.

There would undoubtedly be opposition to such a move both within and outside the Security Council. As previously noted, members of the Security Council have not demonstrated significant support for the U.N. WPS agenda.<sup>286</sup> Russia has demonstrated significant domestic resistance to gender equality efforts.<sup>287</sup> China and Russia have recently abstained from key WPS agenda items.<sup>288</sup> All current members of the Security Council struggle with various issues related to equality of gender treatment.<sup>289</sup> Asking these nations to enact a resolution committing themselves to a legal requirement to do better would be difficult at best.

Further, as statistics make clear, many other nations outside the Security Council have significant issues with unequal treatment of women.<sup>290</sup> They would also presumably be concerned by a UNCSR under Chapter VII which would be legally binding on them and require them to take steps to overcome long-term and widespread gender disparities.

Despite this potential opposition, as Valerie Hudson has argued, “[i]t is time for the Security Council and General Assembly to hold nations truly accountable for how women are treated within their borders, and in so doing prove that humankind finally understands that the security of nations and the security of women are inextricably linked.”<sup>291</sup> If the international community is truly committed to international peace

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286. *See supra* Part III.

287. *See supra* Part III.F.

288. S.C. Res 2493 (Oct. 29, 2019); *The United Nations Security Council Unanimously Adopts New Resolution on Women, Peace and Security*, PRIO CTR. ON GENDER, PEACE & SEC. (Oct. 30, 2019), <https://gps.prio.org/News/Item/?x=1185> [<https://perma.cc/99HG-R2KR>].

289. *See Security Council WPS Scorecard*, *supra* note 200.

290. HUDSON ET AL., *supra* note 14, at 1-11.

291. Valerie M. Hudson, *Sex and National Security: Insights from the Life Sciences*, WORLD POL. REV. (Aug. 10, 2010), <https://www.worldpoliticsreview.com/articles/6231/sex-and-national-security-insights-from-the-life-sciences+&cd=1&hl=en&ct=clnk&gl=us> [<https://perma.cc/5R6Z-GMDP>] [hereinafter *Sex and National Security*].

and security, we believe the single most effective action it can take is to legally require, through UNSCR action under Chapter VII, the equal treatment of women.

### *C. Chapter VII and Specific Provisions*

If the Security Council decides to treat gender equality as not only a matter of international peace and security, but also as one that it will invoke Chapter VII to remedy, there are a number of specific steps that the Security Council can and should take. The Security Council should, as a start: 1) require Member States to validate and strengthen grassroots organizations, 2) create a template for a NAP and mandate its domestic adoption by Member States, and 3) establish basic minimum domestic law guarantees with respect to women's equality rights with which all Member States must comply.

#### 1. Grassroots Organizations

Given the importance of work done by grassroots organizations, the UNSCR should direct specific support for such organizations. The impact grassroots organizations can have, and have had, is indisputable.<sup>292</sup> In fact, it is only through grassroots organizations that equality of women's rights can be appropriately achieved in connection with changing the cultural and other norms in each society.<sup>293</sup>

The UNSCR should explicitly identify the benefit of working through grassroots organizations and then direct the Secretary-General to ensure that a certain amount of U.N.-coordinated funding is given specifically and directly to grassroots organizations. This will require a clear definition of what constitutes a grassroots organization (such as the Northern Ireland Women's Coalition or Russia's "Fem Fest")<sup>294</sup> and

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292. As stated in the U.N. Women's 2015 Report:

To remove gender inequality in all of its forms—from gendered poverty and exclusion, to structural discrimination, and violations of human rights—peacebuilding initiatives must empower women and girls economically, politically and socially. They must include long-term development strategies that benefit women and girls from the grassroots, building their capacity for individual and collective action.

COOMARASWAMY, *supra* note 15, at 169.

293. *See supra* Sections III.C-III.F.

294. *See* Murtagh, *supra* note 225; Litvinova, *supra* note 206.

some amount of monitoring to ensure the money is going to the right organizations and not being siphoned off by either international or domestic organizations and governments. In order to ensure uniformity and verifiability, the Security Council should direct the Secretary-General to build a registration scheme for grassroots organizations that satisfies the definition, ensuring the organizations are truly representative of local women's movements that are engaged in seeking equality of treatment within the realm of international peace and security. The Security Council may also require Member States to generate their own list of qualified grassroots organizations for review by the Secretary-General. The database would become a resource for institutions who desire to promote the goals of WPS by donating time, money, and expertise.

Once the database is created and used to register organizations, the Security Council should direct the Secretary-General to create forums for the education and training of the registered organizations.<sup>295</sup> The training should be supervised by the Secretary General and focus on lessons learned since the promulgation of UNSCR 1325, such as the positive impact of women when they play a role in the peace process. As the 2015 Report advocates:

Networks of women peacebuilders and peacemakers must be expanded and supported to come to the fore. Their solidarity is essential if we are to move the world toward the original vision of the United Nations, where nations turn their 'swords into plowshares' and act with conviction to prevent wars through dialogue and discussion.<sup>296</sup>

The Secretary-General should also create a forum for information and experience sharing among grassroots organizations. This could be a mostly internet-based forum, but would necessarily include options for confidential information exchanges, including documents and media that would include information such as lessons learned, techniques and strategies, and contact information. This is an area where a "top-down" facilitation of a "bottom-up" approach might be very useful. By creating

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295. The value of training is a consistent theme for increasing the effectiveness of grassroots organizations. For example, the Secretary General's 2004 Report states, "[o]ne lesson learned from the peace negotiations in Liberia is that women need to receive early support and training in order to facilitate their active participation in the negotiation of peace agreements." 2004 Report on Women and Peace and Security, *supra* note 197, ¶ 27.

296. COOMARASWAMY, *supra* note 15, at 16-17.

a globally managed and protected forum where grassroots organizations can share ideas, experiences, and best practices, the U.N. could help facilitate real change in WPS. In support of the idea for information exchange, Valerie Hudson has argued, “[a]nother important state information strategy is to educate women about their rights under state law. As we have noted, often there are fairly enlightened laws on the books whose effects never seem to translate into the real lives of women.”<sup>297</sup> However, even the most enlightened laws are not useful if the citizens subject to those laws do not know how to effectively utilize them. By creating a forum for sharing information, the U.N. could facilitate the sharing of lessons learned between grassroots organizations, allowing them to benefit from each other’s experiences.

Noting the importance of bottom-up approaches,<sup>298</sup> the U.N. must take these initiatives in a way that ensures similar actions are also implemented within Member States. A top-down requirement is not necessarily a top-down approach. The Security Council could require States to accomplish certain end results but allow a “margin of appreciation”<sup>299</sup> in the implementation measures necessary to accomplish those ends. Facilitating an active role by State governments will hopefully build trust between local government and civil society.

Further, the effectiveness of this recommendation is almost completely dependent on access, much of which might be limited by non-political factors such as cost of travel, access to consistent internet, and modern computer infrastructure. If a grassroots organization does not have access to computers that connect to the internet, even the most well-designed forum would provide no help. Additionally, political factors such as government censorship, restrictions on the formation of grassroots organizations, and limitations on registration with the U.N. or other civil society organizations may also prevent effective participation in an otherwise beneficial forum framework. Requiring States to enable grassroots organizations to communicate and access information

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297. *Sex and National Security*, *supra* note 291.

298. Powell, *supra* note 4, at 271-72, 278, 315 (arguing for a “democratic legitimacy” framework for WPS in part because it takes greater account of bottom-up approaches).

299. The European Court of Human Rights developed the “margin of appreciation” doctrine, which acknowledges conflicts may arise between the domestic laws of various states, and thus states should be granted some discretion when it comes to fulfilling their obligations to the European Convention on Human Rights. This doctrine has since been adopted and applied to other areas of international human rights law. *See Proportionality, the Margin of Appreciation and our Human Rights—in Plain English*, EACH OTHER (Dec. 7, 2017), <https://eachother.org.uk/proportionality-margin-appreciation-human-rights-plain-english/> [<https://perma.cc/XM4M-WGS5>].

sources such as the forum discussed above will help limit existing restraints States may have installed through both law and policy.

Despite these potential issues, effective and focused Security Council action under Chapter VII and continuing oversight of state government actions will do much to overcome limitations, particularly those generated by domestic governments. Encouraging the creation and continuing political support for grassroots organizations, and then registering the organizations and providing ways for such organizations to network, share best practices, and cooperate would be a significant move forward. Ensuring the involvement of State and local governments through mandatory language in the UNSCR will create specific and pragmatic implementation of the WPS agenda.

## 2. National Action Plans

The Security Council should also make the establishment of NAPs mandatory and provide assistance in their creation and review of their implementation. States are not currently required to create a NAP, and there is very little actual review of NAP implementation.<sup>300</sup> Acting under Chapter VII, the Security Council could turn the NAP into a real tool for change and improvement.

The Security Council must first mandate the creation of a U.N. NAP template that establishes specific areas of concern that must be addressed. This NAP template would establish the baseline requirements for subsequent NAPs by Member States and would contain at a minimum Fritz's seventeen points discussed above in Part II.C.1.<sup>301</sup> This template would then be disseminated to Member States as the basis for their own NAPs. Some degree of standardization on the topics to be covered will help produce NAPs that share common interpretations of key terms and requirements, while still allowing Member States to adapt the NAPs for their culture and address individual State issues and concerns. For example, in some NAPs, taking action to ensure women's ability to create, manage, and own businesses would be more important than in others.

The UNSCR should mandate the involvement of women, both in the development of this template and in the work of Member States as they create their own NAPs. In line with other similar quotas such as

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300. *See supra* Section II.C.1.

301. Fritz, *supra* note 115, at 85-89.

electoral quotas,<sup>302</sup> ensuring women's voices are a vital part of the NAP process will ensure the needs of women are addressed in a systematic and pragmatic way.

As Member States produce their own NAPs based on the U.N. template, States should be required to have their NAPs reviewed by the Security Council or another appropriate U.N. organization to ensure compliance and efficacy. Beginning from an agreed U.N. template and then subjecting the proposed NAPs to rigorous review by the U.N. will encourage Member States to take the NAP formulation process seriously. Once Member States' NAPs have been reviewed and approved, the U.N. must continue to monitor implementation and allow the Security Council to take subsequent action in cases of recalcitrance.

Of course, Member States are going to resist both the required formulation of NAPs and review of those NAPs as impinging on their sovereignty.<sup>303</sup> States may claim that the template is not culturally or politically sensitive. These claims can significantly damage the potential impact of the requirement to produce a NAP if the template and review process is not sensitive to these concerns, while still enforcing the required rigor to actually bring about change. However, properly supervised and reviewed, NAPs can become the meaningful roadmap for implementing women's equality that they were originally designed to be. Requiring periodic review and updates to the domestic NAPs will also provide continuing, meaningful, forward movement on accomplishing gender equality and international peace and security.

### 3. Domestic Laws

The inequality of domestic laws, particularly in the areas of inheritance, property ownership, business, and domestic violence, is a major impediment to gender equality.<sup>304</sup> As the Secretary-General's 2015 Report noted:

Without access to land, credit, tenure, skills training or information, women's power to build peace and promote recovery from conflict is seriously impaired. In many fragile settings, women do not have access to assets, such as land, livestock, credit, farm implements or fishing boats and nets.

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302. See COOMARASWAMY, *supra* note 15, at 50, 175.

303. See *supra* Section III.A.1.

304. HUDSON ET AL., *supra* note 14, at 54-68.

They are instead left with what they can accomplish with their own hands in time not given over for caregiving. This has a profound impact not only on their poverty and marginalization but also on their ability to improve their communities and shape their future.<sup>305</sup>

Inequality that is generated by domestic law is an issue that highlights the tensions between the very basic tenets of human rights law and a nation's cultural and religious identity. The depth of this question is beyond the scope of this Article. However, what can be said here is that providing women equal protection under the law is key to achieving true gender equality. It follows that the Security Council, acting under Chapter VII of the U.N. Charter, has the right and power to involve itself in a nation's domestic laws to ensure equal protection in order to facilitate international peace and security.

The Security Council might accomplish this in many different ways. It could adopt as mandatory various recommendations of the Human Rights Council with respect to individual States. It could conduct its own more general review or commission a separate review by the Secretary-General or others to assess what legal paradigms would best support gender equality and then accept and implement recommendations for domestic law standards as well as best practices. The Security Council could also incorporate the findings and recommendations of numerous commentators who have urged action in this area.

Regardless of the specific methodology by which the Security Council chooses to remedy domestic legal inequalities for women, taking action is a vital step in moving forward. Gender equality's direct tie to international peace and security gives the Security Council the right to "intervene in matters which are essentially within the domestic jurisdiction of any state,"<sup>306</sup> and the long-term benefits to world peace demand that the Security Council do so.

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305. COOMARASWAMY, *supra* note 15, at 81.

306. Article 2.7 of the United Nations Charter specifically allows the Security Council to intervene in otherwise domestic matters when taking measures under Chapter VII:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

U.N. Charter art. 2, ¶ 7.



## V. CONCLUSION

“Two decades of research have led me to conclude that the primary source of these demographic trends that breed insecurity is the systemic insecurity of the world’s women.”<sup>307</sup>

Given the statistical research correlating gender equality and international peace and security, it is time for the international community to take serious steps to ensure the equal treatment of women. International law can and must play a key role in that process. The Security Council provided the foundational principles with the passage of UNSCR 1325. However, this and subsequent actions have proven ineffective in actually bringing about meaningful change. It is now time to take the next step.

The most important next step in the process is the transition of the Security Council’s efforts to Chapter VII where it has mandatory authority over the Member States of the United Nations. As the keeper of international peace and security, the Security Council is not only the natural actor to engage in this vital effort, but also the only one that has the legal responsibility and corresponding power to ensure this effort moves forward.

Because of the potential impact on international peace and security, this effort is absolutely vital for the international community. As we mark the twentieth anniversary of UNSCR 1325, now is the time for the Security Council to follow these proposed steps and take meaningful action to secure world peace through gender equality. ❀

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307. *Women and the Demography-Security Nexus*, *supra* note 6.