

CHAPTER 12

LINKAGES BETWEEN HUMAN RIGHTS MECHANISMS AND THE SECURITY COUNCIL RESOLUTIONS ON WOMEN, PEACE AND SECURITY: OPPORTUNITIES FOR ENHANCED ACCOUNTABILITY FOR IMPLEMENTATION

+ “I don’t think any other Security Council resolution has been translated into so many languages and is being used in so many kind of organic, indigenous ways by people.”

Sanam Naraghi-Anderlini, Co-Founder, International Civil Society Action Network,
UN Women Video Interview, 2015

HIGHLIGHTS FROM THE RESOLUTIONS

+ Resolution 1325

Reaffirming also the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts

Calls upon all parties to armed conflict to respect fully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court

2000

+ Resolution 2106

Notes that the fight against impunity for the most serious crimes of international concern committed against women and girls has been strengthened through the work of the ICC, ad hoc and mixed tribunals, as well as specialized chambers in national tribunals; reiterates its intention to continue forcefully to fight impunity and uphold accountability with appropriate means

+ Resolution 2122

Recalls in this regard applicable provisions of international law on the right to reparations for violations of individual rights

2013



The Security Council, with its adoption of resolution 1325 and the six subsequent resolutions on women, peace and security, has made clear that women's human rights and gender equality are central to the maintenance of international peace and security. To fully realize the human rights obligations of the women, peace and security (WPS) agenda, all intergovernmental bodies and human rights mechanisms must act in synergy to protect and promote women's and girls' rights at all times, including in conflict and post-conflict situations.

The range of human rights mechanisms include the human rights treaty bodies—including the Committee on the Elimination of Discrimination against Women—the Human Rights Council and its Universal Periodic Review and special procedures, regional human rights courts and commissions, and national human rights mechanisms. These mechanisms have long addressed elements of the WPS agenda, including the obligation of States to uphold women's and girls' rights to education, health, participation in governance, and to live lives free of violence and discrimination. In consultations for the Global Study around the world, women reaffirmed the centrality of human rights and gender equality to the WPS agenda, and reinforced that the agenda is not only relevant for the Security Council, but is the responsibility of a full range of actors, including in particular Member States.

This chapter describes how the effective use of these mechanisms, and increased information-sharing with the Security Council, can build the capacity of the international community, including civil society, to hold Member States to account for their implementation of global commitments on women, peace and security, and offer new opportunities for deeper analysis, preventive action and durable solutions to conflict.

THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is often described as an international bill of rights for women. With 189 States parties, it is one of the most-ratified treaties

+ “...[S]ustainable peace requires an integrated approach based on coherence between political and security measures, development and human rights agendas, including gender equality and the rule of law.”

Committee on the Elimination of Discrimination against Women, submission to the Global Study

in the world. In resolution 2122, the Security Council recognized the importance of CEDAW and its Optional Protocol to the WPS agenda, and urged Member States to ratify both documents.¹ On the same day that the Security Council adopted resolution 2122 (2013), the Committee on the Elimination of Discrimination against Women, the body which oversees the implementation of the Convention, adopted General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations.² This general recommendation clarifies State and non-State obligations to implement the Convention before, during and after conflict and political crises, and through contributions to international peacekeeping forces, and as donors providing assistance—reaffirming CEDAW's role as one of the most important accountability tools for the WPS agenda.

CEDAW General Recommendation 30 clarifies the Convention's linkages with the Security Council, calling for

implementation of the resolutions on women, peace and security to be premised on a model of gender equality, as enshrined in the Convention. The development of the general recommendation was informed by a wide and deep process of consultation with conflict-affected women and civil society actors in different regions of the world. The general recommendation is notable also for its inclusion of non-State actors—although CEDAW cannot place obligations on non-State actors,³ the Committee urges them to respect women’s rights in conflict and post-conflict situations, and to prohibit all forms of gender-based violence.⁴ It also affirms the responsibility of States for non-State violations of women’s rights—including for the actions of corporations, armed groups, and other individuals, entities and organizations operating extraterritorially but under the control of the State.⁵ States should engage with non-State actors to prevent human rights abuses relating to their activities in conflict-affected areas, in particular all forms of gender-based violence. They should adequately assist national corporations in assessing and addressing the heightened risks of abuses of women’s rights; and establish an effective accountability mechanism.⁶

In addition to its substantive rights guarantees, CEDAW contains a periodic reporting and review process under its Article 18, which requires all States parties to report on measures they have adopted to give effect to the provisions of the Convention including in conflict prevention, conflict and post-conflict situations.⁷ Under Article 18 (1), States parties undertake to submit a report within one year of ratification, and thereafter at least every four years “and further whenever the Committee so requests.”

Article 18(1)(b) of the Convention further mandates the Committee to request ‘exceptional reports’ where there is special cause for concern about a violation of women’s human rights. The Committee has already used exceptional reporting since the 1990s to address women’s human rights in conflict and post-conflict situations. The Committee should consider expanding its use of exceptional reporting and calling for special sessions specifically to examine implementation of General Recommendation 30. These measures would

play an important role in tracking what is happening to women during a conflict, highlight their agency, draw attention to areas where support is needed, track levels of consultation and participation in possible peace processes, and raise the level of scrutiny as to State conduct and responsibility.

CEDAW reporting, whether regular or exceptional, offers an important—and yet to be fully utilized—accountability mechanism also for the implementation of commitments on women, peace and security. General Recommendation 30 makes the following specific recommendations to States parties in their reporting to the Committee:

- States parties should report on the legal framework, policies and programmes they have implemented to ensure the human rights of women in conflict prevention, conflict and post-conflict.
- States parties should collect, analyze and make available sex-disaggregated statistics, in addition to trends over time, concerning women, peace and security.
- States parties’ reports should address actions inside and outside their territory in areas under their jurisdictions, in addition to their actions taken individually and as members of international organizations as they concern women and conflict prevention, conflict and post-conflict situations.
- States parties are to provide information on the implementation of the UN Security Council agenda on women, peace and security, in particular resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1960 (2010), 2106 (2013) and 2122 (2013).
- States parties should specifically report on compliance with any agreed benchmarks or indicators developed as part of that agenda.

A new Guidebook on CEDAW General Recommendation 30 and the UN Security Council Resolutions on Women, Peace and Security offers States parties further guidance on reporting, including a checklist of questions.

FOCUS ON

Checklist of questions for States Parties reporting to CEDAW⁸

Conflict Prevention

- What early warning systems are in place for the prevention of conflict? Do early warning systems promote the inclusion of women? Are early warning indicators gender sensitive and specific to gender-based violations impacting women?
- Detail the extent to which women's formal and informal conflict prevention efforts are supported.
- What measures have been taken by arms-exporting States parties to ensure that these arms are not being used to commit or facilitate violations of women's human rights including Gender-Based violence? Has the State ratified the Arms Trade Treaty and what measures have been taken to implement the Treaty?
- Detail efforts by States parties, through domestic and foreign policy, for the effective regulation over conventional and illicit arms, including small arms.

Gender-Based Violence

- What measures have been taken to prohibit, prevent and punish all forms of conflict-related violence against women and girls perpetrated by State and non-State actors?
- What measures have been taken to protect civilians from conflict-related sexual violence?
- Detail processes for standardized data collection on conflict-related violence against women and girls.
- What legal, medical and psychosocial services are

available to victims of conflict-related violence? What measures have been taken to ensure effective access to these services by all women and girls?

- Detail procedures for ensuring that all humanitarian, military and police personnel contributing to international responses to conflict are appropriately trained in the prevention of sexual violence and codes of conduct on sexual exploitation and abuse. Detail measures through foreign policy, membership of international financial institutional and intergovernmental organizations, to strengthen judicial, health and civil society responses to conflict-related sexual violence.
- Detail the contribution of States parties to UN efforts to prevent sexual violence in conflict, for example, through funding, personnel and political leadership.

Trafficking

- What measures have been taken by the by States parties to ensure that migration and asylum policies do not operate to deter or limit opportunities for women and girls fleeing conflict zones to lawfully access asylum, and thereby decrease vulnerability to trafficking and exploitation?
- What bilateral and multilateral measures have been taken by States to protect the rights of trafficked women and girls and to facilitate the prosecution of perpetrators of trafficking and sexual exploitation and abuse (SEA)?
- What measures have been taken to adopt a policy of zero tolerance on trafficking and sexual exploitation and abuse, which also addresses national troops,

peace-keeping forces, border police, immigration officials and humanitarian actors?

Participation

- What obstacles, including legal, social, political or institutional, exist to women's participation in conflict prevention, management and resolution?
- What measures, including temporary special measures, have been taken to ensure women's equal participation in conflict prevention, management and resolution?
- To what extent are women's civil society organizations included in peace negotiations and post-conflict rebuilding and reconstructions? Detail the measures, including temporary special measures, taken to ensure the inclusion of women's civil society in peace negotiations and post-conflict rebuilding and reconstructions.
- What training has been provided and to whom to support women's civil society participation and leadership in such processes?
- What numbers of States parties' negotiation and mediation personnel are female, including at senior levels?
- What technical assistance have States parties offered through their foreign policy and membership in intergovernmental and regional organizations to promote women's effective participation in conflict prevention, mediation and peacebuilding?

Access to Education, Employment and Health, and Rural Women

- What measures have been taken to ensure women's and girls' access to education at all levels in post-conflict contexts?
- How do post-conflict economic recovery strategies promote women's participation and equality? Do these policies address women's roles and needs within both the formal and informal sectors? Do they recognize the particular situation of rural and other disadvantaged groups of women, as disproportionately affected by the lack of adequate health and social services and inequitable access to land and natural resources?
- Detail provision for sexual and reproductive healthcare, including access to information, psychosocial support, family planning services, maternal health services, safe abortion services, post-abortion care and HIV/AIDS prevention, treatment and support. What measures have been taken to ensure equal access of women and girls to such services?
- What foreign policy and practice, through bilateral and multilateral activity, has been undertaken to ensure women's participation in economic recovery and related decision-making?

Displacement, Refugees and Asylum Seekers

- What preventative measures have been taken to protect against forced displacement and violence against internally and externally displaced women and girls?

- Do policy and legal responses to displaced populations recognize the gender-specific needs of displaced women and girls? Do these laws and policies recognize the different needs of displaced women and girls at different stages of the displacement cycle, during flight, settlement and return? Do these laws and policies respond to multiple and intersecting forms of discrimination faced by different groups of displaced women and girls, including women with disabilities, older women, women with HIV/AIDS, women belonging to ethnic, national, sexual or religious minorities?
- Detail efforts to ensure the protection of civilians, the prevention of sexual and gender-based violence, and equal access to supplies and services in camps, located within the State party's territory, bordering States, and through foreign policy and membership of intergovernmental agencies and organizations.

Security Sector Reform and Disarmament, Demobilization and Reintegration (DDR)

- What efforts have been taken to ensure that DDR processes are gender sensitive and have been developed in coordination with security sector reform initiatives?
- Detail measures to ensure that perpetrators of conflict-related gender-based violence have been excluded from reformed security sector forces.
- What measures have been taken to ensure that security sector reform results in security sector institutions that are inclusive of women, liaise with women's organizations and respond to women's and girls' gender-specific post-conflict security needs?
- Detail provision for gender-sensitive investigation of sexual and gender-based violence and the prevention of sexual violence within reformed security sector institutions.

- Detail protection measures for women and girls in and near cantonment sites.
- What measures have been taken to ensure that female combatants are included in DDR programmes and that the specific needs of victimized girls within demobilized armed groups have been addressed?

Constitutional & Electoral Reform

- Detail measures taken to ensure registration and voting of women voters. Detail measures, including temporary special measures, for the equal participation of women in all official processes of constitutional and electoral reform.
- What measures are being taken to ensure that reformed constitutions and electoral systems respect women's human rights, prohibit direct and indirect discrimination, and will guarantee the participation of women?
- Detail actions taken, through domestic and foreign policy, to ensure women's safety prior to, and during, elections.

Access to Justice (Accountability, Amnesty, Rule of Law Reform, Transitional Justice)

- Do amnesty laws permit impunity for gender-based violence? To what extent have sexual and other forms of gender-based violence been prosecuted as elements of genocide, war crimes and crimes against humanity?
- What measures are in place to ensure women's equal participation in post-conflict constitutional and legal reform processes?

Some States parties have been asked by the CEDAW Committee during constructive dialogues to provide information on the implementation of the resolutions on women, peace and security. Twelve conflict and post-conflict countries had their reports considered by the CEDAW Committee during 2013 and 2014. This questioning applies periodically to all States parties, and also presents an important opportunity for civil society, through parallel reporting, to complement the information contained in States parties' reports.

The constructive dialogues and the concluding observations of the CEDAW Committee can help to bring much needed attention to issues of critical importance. In its concluding observations of July 2013 on the situation in the Democratic Republic of the Congo (DRC), for example, the Committee expressed concern about the failure of the authorities to prioritize the protection of civilians, and the denial by key State officials of the extent of violence committed against women in conflict-affected areas.⁹ The Committee also expressed concern about the limited regulation of small arms and light weapons and their impact on the security of women. The case of Syria provides another illustrative example.

Article 8 of the CEDAW Optional Protocol also offers an important accountability mechanism for the women, peace and security agenda: individuals or groups of individuals may submit reliable information to the Committee indicating grave or systematic violations by a State Party of rights set forth in the Convention, which would include conflict-related violations as defined in CEDAW General Recommendation 30. If a State party to the Optional Protocol has not opted out from the inquiry procedure, at its discretion, the Committee may then designate one or more of its members to conduct an inquiry and to report urgently to the Committee.

While almost all countries in the world have ratified CEDAW, many have made reservations that limit its

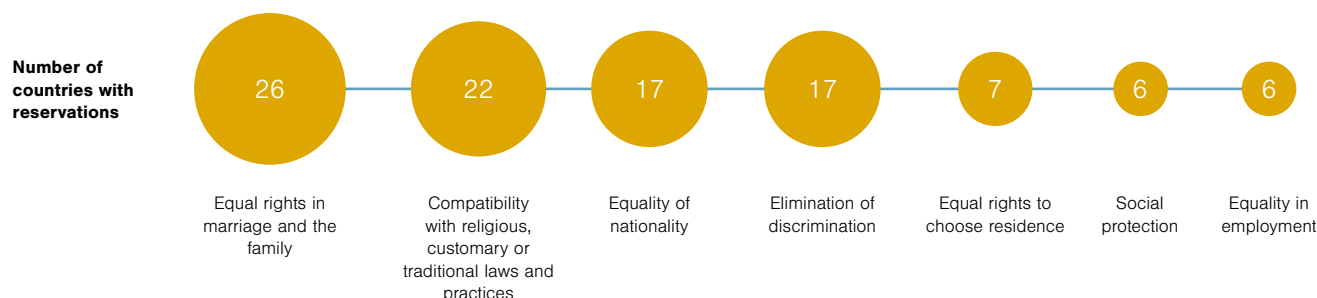
implementation. Further efforts should be taken to remove such reservations.

OTHER HUMAN RIGHTS TREATY BODIES

In addition to the CEDAW Committee, there are nine other treaty bodies charged with monitoring implementation of the major human rights treaties.¹⁰ All treaty bodies play an integral role in monitoring violations of women's rights in conflict and post-conflict settings, and their engagement can inform policy of other Member States, assist in documentation relevant to other parts of the UN system (for example, a Universal Periodic Review or a commission of inquiry) and ultimately be of use in a criminal investigation. The Convention on the Rights of the Child (CRC) and its treaty body, the Committee on the Rights of the Child, are particularly important tools in this regard. The CRC and an optional protocol to the Convention on the involvement of children in armed conflict, address States Parties' obligations with regards to the specific rights and needs of adolescent girls living in conflict-affected countries.¹¹ For example, in its concluding observations on Rwanda under the optional protocol on armed conflict in 2013, the Committee recommended that Rwanda give particular attention to girls, including teenage mothers and their children, in the development of demobilization, disarmament and reintegration policies and programmes.¹²

The human rights conventions and treaty bodies serve as important mechanisms for engaging in long-term, structural prevention of conflict. For example, the International Convention on Economic, Social and Cultural Rights requires States parties to provide equitable access to education, health care, and employment. The Committee has raised concern over budgetary allocations for the progressive realization of each of these rights in relation to military and defense expenditure.¹³ By examining inequality and political

Reservations to CEDAW as of March 2015¹⁴



FOCUS ON

Concluding observations regarding gender-based human rights violations in Syria¹⁵

Syria ratified CEDAW in April 2003, and has presented two reports to the CEDAW Committee—its initial report in 2007, and its second periodic report in 2014. Following the reporting by the Syrian Government in 2014, and supported by a parallel report submitted by Syrian women’s human rights organizations and international allies, the Committee issued strong and comprehensive concluding observations. These concluding observations could serve as a model for the engagement of civil society with human rights mechanisms on the WPS agenda.

The Committee’s concluding observations and recommendations picked up on the issues raised in the parallel civil society report. The Committee responded to civil society demands to address violence against women and discriminatory cultural practices and stereotypes, calling for Syria to hold State and non-State actors accountable for gender-

based violence; to provide necessary medical and mental health treatment to survivors; and to ensure that a reparations program is carried out which addresses the needs of women and girls, and addresses structural inequalities. The Committee also addressed humanitarian concerns, urging Syria to revive its peace process and to include women meaningfully at all stages of peace negotiations and in transitional justice processes.

The Committee’s concluding observations illustrate how the Convention and its reporting mechanism can be used to expose human rights violations in conflict, and address structural and institutional obstacles to gender justice and equality. Syria’s consideration by the CEDAW Committee also demonstrates the importance of a strong and unified civil society voice in ensuring the Committee hears and responds to the concerns of women living in conflict-affected countries.

economy as drivers of conflict, the Committee on Economic, Social and Cultural Rights has an important role in holding all States parties accountable for the ‘prevention’ pillar of the WPS agenda.

THE HUMAN RIGHTS COUNCIL

Universal Periodic Review

The Universal Periodic Review (UPR) is the main mechanism of the United Nations Human Rights Council (HRC) to assess on a regular basis the human rights situation of each Member State. It provides an opportunity for States to examine each other’s activities to implement all human rights obligations, including the provisions of CEDAW and the other human rights treaties. Unlike the expert reviews conducted by the CEDAW Committee, UPR takes place through an interactive dialogue between the State under review and other Member States—any Member State can pose a question or make a recommendation to the State under review. As a peer review mechanism, UPR thus plays a special role in ensuring that women’s rights in conflict and post-conflict contexts are discussed on an international stage among Member States.

Recent periodic reviews of conflict and post-conflict countries have addressed issues relating to the implementation of resolution 1325, and they have been particularly strong in their recommendations regarding accountability for conflict-related sexual violence. In 2014, Ireland recommended that the DRC work to ensure full implementation of resolutions 1325 and 2122, including by increasing women’s participation in peacebuilding.¹⁶ More than two dozen States made recommendations to the DRC regarding conflict-related sexual violence. Estonia, Luxembourg and France each made recommendations to the Central African Republic to implement resolution 1325, including through increased women’s participation in the transitional process, while nine States made recommendations regarding conflict-

related sexual violence.¹⁷ These recommendations send a clear and important message: Member States of the international community value gender equality and women’s rights, particularly in conflict-affected contexts, and are willing to hold their peers to account on obligations and commitments made in this regard.¹⁸

Civil society and other stakeholders also play an important role in strengthening UPR as an accountability process, first through submissions to the HRC which describe progress and gaps in implementing States’ obligations regarding women’s human rights and gender equality, and second using the outcomes of UPR to advocate for change in their home countries. As one important form of information-sharing across human rights bodies, regional human rights bodies—the Council of Europe, the Inter-American Commission of Human Rights, and the African Commission on Human and Peoples’ Rights—also submit reports to the HRC on their Member States undergoing review.¹⁹

Special Procedures and Other Mechanisms

The Special Procedures of the HRC are independent experts entrusted with the mandate to examine, monitor, advise and publicly report on human rights


+ *Recent periodic reviews [...] have been particularly strong in their recommendations regarding accountability for conflict-related sexual violence.*

situations in specific countries or on human rights related themes worldwide.²⁰

Mandates, whether country-specific or thematic, are implemented in a range of ways, including through reports, country visits, communications on alleged violations of human rights to the Governments concerned and press releases on specific matters of concern. Spearheaded by the mandate of the Special Rapporteur on violence against women, its causes and consequences, these mechanisms have over the past 17 years increasingly focused attention on women's human rights in conflict and post-conflict situations through their thematic and country visit reports. The thematic and country-specific findings and recommendations put forward by these experts form an additional accountability tool which could be better utilized for the implementation of the WPS agenda, in particular by informing the work of the Security Council and other international and regional bodies concerned with the maintenance of peace and security.

Already, the HRC's Special Procedures have played an important role in advancing the WPS agenda. For example, the Special Rapporteur on Violence Against Women issued a seminal report on reparations, which has furthered acceptance of the need for justice to transform underlying social inequalities that affect women and girls (see Chapter 5: *Transformative Justice*). The Working Group on Discrimination against Women in Law and in Practice issued its first thematic report on discrimination against women in public and political life including in times of transition,²¹ and the Working Group on Enforced Disappearances adopted a General Comment on gender and enforced disappearances.²²

Issues related to women, peace and security have also been raised by the Working Group on discrimination against women in law and practice, the 14 Special Rapporteurs with country-specific mandates, and the Special Rapporteurs on: the human rights of internally displaced persons; extrajudicial, summary or arbitrary executions; the right to food; minority issues;

 *The thematic and country-specific findings and recommendations put forward by these experts form an additional accountability tool which could be better utilized for the implementation of the WPS agenda.*

contemporary forms of racism, racial discrimination, xenophobia and related intolerance; extreme poverty and human rights; the situation of human rights defenders; trafficking in persons, especially women and children; and the promotion of truth, justice, reparation and guarantees of non-recurrence. Many of the fourteen country-specific special procedures also regularly include analysis of women, peace and security-related themes in their reporting to the Human Rights Council.

While special procedures have a strong track record of drawing international attention to issues within the WPS agenda, the UN can do more to ensure that this information and analysis reaches global peace and security decision-making bodies, including the Security Council. For example, the Special Rapporteur on the Human Rights of Internally Displaced Persons briefed the Security Council in October 2014 in connection to the open debate on women, peace and security.²³ Equally, States engaging with the special procedures mechanisms should provide information to these mechanisms on progress made in implementing the WPS agenda, including the seven Security Council resolutions, and CEDAW General Recommendation 30.

FOCUS ON

Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence: Integrating gender into conflict-related justice efforts²⁴

The mandate of the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence was created by Human Rights Council resolution 18/7, adopted in September 2011. The mandate holder is tasked with dealing with situations in which there have been gross violations of human rights and serious violations of international humanitarian law. Resolution 18/7 specifically notes that the Special Rapporteur will “integrate a gender perspective throughout the work of the mandate”—a request which consistently appears in HRC resolutions regarding special rapporteurs.

As the first Special Rapporteur holding this mandate, Pablo de Greiff has used Security Council resolution 1325 as the key framework to inform the gendered elements of his mandate in thematic and policy level work as well as in country-specific engagement. In particular, reports and recommendations of the Special

Rapporteur consistently reflect the issue of protection of women and girls from gender-based violence, and emphasize the fight against impunity for crimes relating to sexual and other violence against women and girls. The Special Rapporteur has established a close cooperation with UN Women, the AU Special Envoy on Women, Peace and Security and others to inform technical elements of work and support women’s participation in consultations.

In addition, the Special Rapporteur has continuously emphasized that an overly narrow focus on sexual violence must be avoided. Instead, equal focus must be given to the full range of gender-related violations. He has advocated for Member States to adopt policies to subvert pre-existing patterns of structural gender-based discrimination and inequalities, highlighting the positive ‘spill-over effect’ of such a transformative approach in relation to domestic legislation and policies.

A review of cases of gender-related human rights violations in conflict and post-conflict settings brought to the attention of UN special procedures mandate holders since 2011²⁵ provides a troubling picture of the broad nature of such violations. It includes communications concerning incidents of rape, other forms of sexual violence and violations against survivors and those working to assist them; police beating of rape victims; harassment, enforced disappearances, and killings of women’s human rights defenders; conflict-related killings; extrajudicial executions; arbitrary detention, intimidation, and harassment of LGBT persons; trafficking; sentencing on grounds of

adultery and apostasy with risk of corporal punishment; discriminatory legislation, including regarding nationality; arbitrary closure of women’s rights organizations; disproportionate use of force during the dispersal of demonstrations; forced and early marriage; and attacks against and killings of residents of a refugee camp. These communications affirm the importance of using special procedures to advance accountability for the WPS agenda outside and alongside the Security Council, which has tended to focus on conflict-related sexual violence as a civilian protection concern, often to the exclusion of the full range of human rights violations women experience in conflict settings.

In addition to special procedures, the HRC also has the power to create expert fact-finding bodies to investigate, legally analyze and report on situations of armed conflict or mass atrocity, in the form of commissions of inquiry and fact-finding missions. This adds another important tool for accountability under the WPS agenda, and the HRC must continue to strengthen these bodies' abilities to report on sexual and gender-based violence and violations of women's and girls' human rights (discussed in greater detail in Chapter 5: *Transformative Justice*), and expand the flow of information between these commissions, UN entities and the Security Council (discussed in Chapter 11: *The Security Council*).

REGIONAL HUMAN RIGHTS MECHANISMS

Regional and sub-regional human rights mechanisms also play a key role in advancing implementation of the WPS agenda, and holding States accountable to commitments for gender equality in conflict-affected contexts. The Inter-American system—the Inter-American Commission of Human Rights and the Inter-American Court of Human Rights—provides a strong example of accountability for State violations through regional mechanisms, particularly by reinforcing norms of women's human rights and advancing innovative ideas for gender justice. Europe has also developed jurisprudence on women's rights through the European Court of Human Rights. The Istanbul Convention, a European treaty on violence against women, which entered into force in 2014 and is applicable during times of armed conflict, includes a promising new accountability mechanism: an expert monitoring group, which will become operational in 2015. Sub-regional courts, such as the East African Court of Justice and Caribbean Court of Justice, also afford opportunities to address gender inequality and violations of women and girls' human rights in conflict.

The African regional human rights system—which includes the African Commission on Human and

+ “The participation and leadership of IDP women in finding durable solutions that address their very specific concerns is critical.”

Chaloka Beyani, Special Rapporteur on the Human Rights of Internally Displaced Persons briefing the Security Council during the 2014 debate on Women, Peace and Security

Peoples' Rights, and African Court on Human and Peoples' Rights—has some of the strongest normative frameworks for women's rights. This includes the Protocol on the Rights of Women in Africa, the first international or regional human rights instrument to include provisions on abortion. Unfortunately, the African system sorely lacks in enforcement, however, painting a dim picture of justice for women's rights violations on the regional level. The African Commission, which receives individual complaints of human rights violations, has received only one complaint in its history (of 550 such complaints) requesting a remedy for a violation of women's rights.²⁷

Even the most robust regional human rights mechanisms have been criticized for inefficiency, and for failing to alter the behaviour of Member States with their judgments. For example, the European Court of Human Rights in recent years has made considerable effort to reduce the number of cases pending before it. In 2014 however, there still remained nearly 70,000 such cases.²⁸

FOCUS ON

Gender justice in the Inter-American system

The Inter-American system, comprised of the Inter-American Court of Human Rights and the Inter-American Commission of Human Rights, has adopted a comprehensive approach to gender justice, which recognizes the importance of addressing structural and intersectional discrimination as a root cause of human rights violations. The Inter-American approach should serve as a model for all regional accountability mechanisms in implementing the WPS agenda.

In 2006, the Inter-American Commission of Human Rights released a report on Violence and Discrimination against Women in the Armed Conflict in Colombia.²⁹ The report, based on a visit of the Special Rapporteur on the Rights of Women to the country, recognized the heterogeneity of Colombian women and their experiences of armed conflict, and the need for responses to gender-based violations, which recognized diversity and intersectionality. The report shed particular light on the experiences of indigenous and Afro-Colombian women, who are the victims of religious, ethnic and gender-based discrimination, aggravated by conflict-related violence and displacement. The report made detailed recommendations, mapping a route to justice for conflict-related gender-based violence for all Colombian women and girls.

In its 2009 judgment in the *Cotton Field v. Mexico* case,³⁰ the Inter-American Court of Human Rights

found that the Mexican state had failed to act with due diligence to prevent, investigate and prosecute the disappearance, rape and murder of women in Ciudad Juárez by non-State actors—a violation of international human rights law. Although the *Cotton Fields* judgment does not concern conflict-related gender-based violence, per se, it has important implications for redress for such violations in other contexts. The Court found that the victims and their families were entitled to gender-sensitive and transformative reparations, and that such reparations must seek to accomplish more than a simple return to the status quo, they must also address the underlying structural inequalities that led to the violation.

Reports and judgments such as these represent important advances in the regional and global understanding of what it means to do justice for women victims of gender-based violence, and to provide them with a modicum of accountability against States, particularly vis-à-vis violations by non-State actors. These documents are also evidence of the importance of enhancing synergies and information flows between the international and regional human rights systems, and civil society. Both documents mentioned above make frequent reference to CEDAW reports on Colombia and Mexico, reports by UN special rapporteurs, statements from the High Commissioner for Human Rights and numerous NGO reports documenting violations against women.

NATIONAL HUMAN RIGHTS INSTITUTIONS AND MECHANISMS

The UN General Assembly has recognized the role of independent national institutions in working together with Governments to ensure full respect for human rights at the national level, and in supporting cooperation between Governments and the United Nations in the promotion and protection of human rights.³¹ The Secretary-General has also highlighted their role in reports to the Security Council. In addition to their responsibility for ensuring general compliance of the State with human rights obligations, national human rights institutions (NHRI) are uniquely placed alongside other national-level mechanisms to lead on implementation of recommendations from all international and regional human rights mechanisms. This includes setting timelines, benchmarks and indicators for success, including those on women's human rights issues related to the WPS agenda. Building the capacity of NHRIs to monitor gender-specific human rights violations in conflict and post-conflict settings remains a priority. This includes investing in expertise and staff capacity to monitor and report on key aspects of the WPS agenda and CEDAW General Recommendation 30.

Progress monitoring on the gender-balance and architecture of NHRIs active in conflict and post-conflict settings since 2011³² shows that the degree of women's participation in the leadership of such bodies remains uneven, as does the availability of gender expertise to support investigations. Out of 33 countries and territories reviewed in 2014,³³ 24 had NHRIs of which 13 had been accredited with either A or B status by the International Coordinating Committee for National Human Rights Institutions.³⁴ This means that they comply either fully or partially with internationally-accepted principles relating to the status of national institutions (the 'Paris Principles'),³⁵ requiring that they: have a broad mandate based on universal human rights standards; are autonomous from Government; have their independence guaranteed by statute or constitution; are pluralistic, including through membership or cooperation; are adequately resourced;

and have adequate powers of investigation.³⁶ Some countries such as the Central African Republic and the Democratic Republic of the Congo are in the process of establishing NHRIs. As of 2014, almost half of these institutions (11) had specific units, departments or committees dealing with women's rights and gender issues, while 13 have released special reports, sections of reports or programmes on women's rights.

The substance and quality of NHRI engagement on women, peace and security varies widely. Afghanistan's Independent Human Rights Commission offers one good practice example of active engagement in monitoring and reporting on women's rights violations. It has a separate Women's Rights Unit tasked with promoting and protecting women's rights, and addressing the underlying causes of violations of women's rights.³⁷ The unit has produced thematic reports on the situation of women in Afghanistan and has called on the Government to address the increase in the level of violence against women. A number of press releases condemning violence and killings of women in the country have also been issued.

+ *Building the capacity of NHRIs to monitor gender-specific human rights violations in conflict and post-conflict settings remains a priority. This includes investing in expertise and staff capacity to monitor and report on key aspects of the WPS agenda.*

RECOMMENDATIONS

Moving progress beyond 2015: Proposals for action

Member States should:

- ✓ Ratify, remove reservations to, and fully implement CEDAW, and report on the implementation of obligations relating to women, peace and security in regular reporting to the CEDAW Committee and other treaty bodies.
- ✓ Report on the implementation of obligations relating to women, peace and security in the UPR; participate in the review of other States undergoing review by asking about their implementation of these obligations; and establish national mechanisms of reporting and follow-up of recommendations emanating from the UPR and other human rights mechanisms.
- ✓ Encourage civil society to submit independent parallel reports, and provide financial support to enable their participation in the UPR process and other human rights treaty body reviews.
- ✓ Provide multilateral and bilateral assistance, and ensure the political support and independence of regional and national human rights mechanisms to address violations of women's rights in conflict-affected contexts, and fully implement the judgments and recommendations of these institutions.

Civil Society should:

- ✓ Submit parallel reports to treaty bodies and the UPR highlighting State obligations relating to women, peace and security.

- ✓ Work with women and girls affected by conflict who wish to submit complaints of individual rights violations to treaty bodies and regional, sub-regional and national human rights mechanisms.

The CEDAW Committee (and, where relevant, other human rights treaty bodies) should:

- ✓ Question countries under review on the implementation of their obligations under the Convention relating to women, peace and security.
- ✓ Encourage and support civil society to submit country-specific information for State party reporting, including State obligations relating to women, peace and security.
- ✓ Consider expanding the extraordinary reporting function, and holding special sessions to specifically examine conflict countries and their implementation of General Recommendation 30.

Human Rights Council Special Procedures, commissions of inquiry and fact-finding missions should:

- ✓ Include conflict and gender analysis in their work in conflict-affected countries, including in the mandates of commissions of inquiry and fact-finding missions.

REFERENCES

1. "Resolution 2122 (2013)," UN Doc. S/RES/2122 (2013) (United Nations Security Council, October 18, 2013).
2. "General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations," UN Doc. CEDAW/C/GC/30 (Committee on the Elimination of Discrimination against Women, October 18, 2013).
3. The Committee noted, however, that under certain circumstances, in particular where an armed group with an identifiable political structure exercises significant control over territory and population, non-State actors are obliged to respect international human rights. Non-State actors should respect women's rights in conflict and post-conflict situations and should commit themselves to abiding by codes of conduct on human rights and the prohibition of all forms of gender-based violence. *Ibid.*, para. 16.
4. *Ibid.*, para. 15. As an example of such self-policing, in the Concluding Observations of the Committee to Syria, the Committee calls upon non-State armed groups which have signed the declaration of Commitment on Compliance with International Humanitarian Law and the Facilitation of Humanitarian Assistance to abide by it in order to facilitate access of humanitarian aid to civilian population, in particular women and children. "Concluding Observations on the Second Periodic Report of Syria," UN Doc. CEDAW/C/SYR/CO/2 (Committee on the Elimination of Discrimination against Women, July 18, 2014), para. 11.
5. "CEDAW General Recommendation No. 30 (2013)," para. 14–15, 17.
6. *Ibid.*, para. 14–15 and 17.
7. The Committee has requested and examined exceptional reports from the States of the territory of the former Yugoslavia- Serbia and Montenegro; Bosnia and Herzegovina; Rwanda; the Democratic Republic of Congo; and more recently to address communal violence in Gujarat, India and its impact on women, as well as Guinea to address the massacre in the stadium in Conakry.
8. This checklist is excerpted from, Catherine O'Rourke and Aisling Swaine, "Guidebook on CEDAW General Recommendation No. 30 and the UN Security Council Resolutions on Women, Peace and Security" (UN-Women, 2015).
9. "Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the Democratic Republic of the Congo," UN Doc. CEDAW/C/COD/CO/6-7 (Committee on the Elimination of Discrimination against Women, July 30, 2013).
10. "Monitoring the Core International Human Rights Treaties: What Are the Treaty Bodies," United Nations Office of the High Commissioner for Human Rights, accessed July 7, 2015, <http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>.
11. Article 38 of the Convention on the Rights of the Child obligates States Parties to respect international humanitarian law in armed conflicts which are relevant to the child, and to protect and care for children affected by armed conflict. Article 39 obligates States Parties to take all feasible measures to ensure protection and care of children who are affected by armed conflict. An optional protocol to the convention focuses specifically on the involvement of children in armed conflict.
12. See, e.g., "Concluding Observations on the Initial Report of Rwanda Submitted under Article 8 of the Optional Protocol to the Convention on the Involvement of Children in Armed Conflict," UN Doc. CRC/C/OPAC/RWA/CO/1 (Committee on the Rights of the Child, July 8, 2013).
13. See, e.g., "Concluding Observations of the Committee on Economic, Social and Cultural Rights on the Second Periodic Report of the Democratic People's Republic of Korea," UN Doc. E/C.12/1/Add.95 (United Nations Economic and Social Council, December 12, 2003).
14. "Progress of the World's Women 2015-2016: Transforming Economies, Realizing Rights" (UN Women, 2015), annex 6.
15. "CEDAW Concluding Observations on the Second Periodic Report of Syria (2014)."
16. "Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo," UN Doc. A/HRC/27/5 (United Nations Human Rights Council, July 7, 2014), para. 134.98.
17. "Report of the Working Group on the Universal Periodic Review: Central African Republic," UN Doc. A/HRC/28/17 (United Nations Human Rights Council, January 6, 2014), para. 105.12–105.15.
18. Charlesworth and Larking point to "the power and potential of [UPR as a] human rights mechanism," arguing that there have been "significant implementation rates within states in the years following their review. This applies even to recommendations rejected by states under review." Hilary Charlesworth and Emma Larking, *Human Rights and the Universal Periodic Review* (Cambridge University Press, 2015), 14.
19. The Council of Europe and the Inter-American Commission submit these reports regularly, when a Member State is under review. The African Commission does so less frequently. "Workshop on Regional Arrangements for the Promotion and Protection of Human Rights: Report of the United Nations High Commissioner for Human Rights" (United Nations Human Rights Council, April 8, 2013), para. 24.
20. The system of Special Procedures is a central element of the UN human rights machinery and covers all human

rights: civil, cultural, economic, political, and social. Special procedures are either an individual (called “Special Rapporteur” or “Independent Expert”) or a working group composed of five members, one from each of the five UN regional groupings. All serve in their personal capacity; they are not UN staff members and do not receive financial remuneration.

21. Human Rights Council, “Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice,” UN Doc. A/HRC/23/50 (United Nations General Assembly, April 19, 2013).
22. Human Rights Council Working Group on Enforced or Involuntary Disappearances, “General Comment on Women Affected by Enforced Disappearances,” UN Doc. A/HRC/WGEID/98/2 (United Nations General Assembly, February 14, 2013).
23. “Security Council Open Debate on Women, Peace and Security Meeting Records,” UN Doc. S/PV.7289 (United Nations Security Council, October 28, 2014).
24. “Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence,” United Nations Office of the High Commissioner for Human Rights, accessed September 28, 2015, <http://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/Index.aspx>.
25. The number and nature of communications has been systematically monitored and reported since 2011 through the UN indicators to track the implementation of resolution 1325 (2000). From 1 January to 30 November 2014, acting in response to reported allegations of human rights violations, United Nations special procedures mandate holders sent 29 communications to 19 of the countries and territories reviewed, which marked and increase from previous years.
26. “Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Rashida Manjoo” (United Nations Human Rights Council, June 10, 2015), para.17.
27. *Ibid.*, para. 24. The case, *Egyptian Initiative for Personal Rights and INTERIGHTS v. Egypt*, was decided in 2011.
28. “European Court of Human Rights: Annual Report 2014” (Strasbourg, France: Registry of the European Court of Human Rights, 2015), 63; Christian M. De Vos, “From Rights to Remedies: Structures and Strategies for Implementing International Human Rights Decisions” (Open Society Foundations, June 2013).
29. “Violence and Discrimination against Women in the Armed Conflict in Colombia,” OEA/Ser.L/V/II. Doc.67 Eng (Organization of American States, Inter-American Commission on Human Rights, October 18, 2006).
30. Ruth Rubio-Marín and Clara Sandoval, “Engendering the Reparations Jurisprudence of the Inter-American Court of Human Rights: The Promise of the Cotton Field Judgment,” *Human Rights Quarterly* 33, no. 4 (2011): 1062–91.
31. See, e.g., “Resolution Adopted on National Institutions for the Promotion and Protection of Human Rights,” UN Doc. A/RES/66/169 (United Nations General Assembly, April 11, 2012); “Resolution Adopted on Effective Promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,” UN Doc. A/RES/68/172 (United Nations General Assembly, January 23, 2014); “Resolution Adopted on The Role of the Ombudsman, Mediator and Other National Human Rights Institutions in the Promotion and Protection of Human Rights,” UN Doc. A/RES/69/168 (United Nations General Assembly, February 12, 2015), 168.
32. Information for NHRIs has been systematically monitored and reported on since 2011 through the UN indicators to track the implementation of resolution 1325 (2000).
33. Countries or territories in which a political, peacebuilding or peacekeeping mission operated during 2014, or concerning which the Security Council was seized and which had been considered by the Council at a formal meeting during the period from 1 January 2014 to 31 December 2014, or countries or territories that received programmatic funds from the Peacebuilding Fund in 2014.
34. “Report of the Secretary-General: Women and Peace and Security,” UN Doc. S/2014/693 (United Nations Security Council, September 23, 2014), fig. 7.
35. “Resolution Adopted on the Role of the Ombudsman, Mediator and Other National Human Rights Institutions in the Promotion and Protection of Human Rights,” UN Doc. A/RES/48/134 (United Nations General Assembly, December 20, 1993), 134.
36. For information on the accreditation procedure, see “International Coordinating Committee for National Human Rights Institutions (ICC),” United Nations Office of the High Commissioner for Human Rights, accessed September 28, 2015, <http://nhri.ohchr.org/EN/Pages/default.aspx>.
37. “Women’s Rights Unit,” Afghanistan Independent Human Rights Commission, December 5, 2011, <http://www.aihrc.org.af/home/women/486>.

