

SECURITY COUNCIL RESOLUTION 1820: ON MILITARISM, FLASHLIGHTS, RAINCOATS, AND ROOMS WITH DOORS—A POLITICAL PERSPECTIVE ON WHERE IT CAME FROM AND WHAT IT ADDS

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For this panel, we were asked to focus on ending impunity for sexual violence. I think that to make the call for ending impunity meaningful, we simultaneously have to think more broadly and more narrowly. Ending impunity is for me only an intermediate goal, which can be disheartening, given how impossible it seems to achieve. And without engaging in a philosophical or theoretical discussion on the justifications or purposes of punishment, I think that for most of us, looking to end impunity is a strategic move to end violations of human rights and to end violence against women.¹ For me, and for the Women's International League for Peace and Freedom (WILPF) for which I work, none of this can be looked at independently from working to end war, to further peace and freedom, and end militarism—and I do not hear nearly enough discussion about ending militarism.

Ending violence against women also requires addressing economic justice and linking it with militarism. It involves looking at military spending and its opportunity costs. These opportunity costs are not merely abstract or theoretical. Every single dollar spent on a nuclear weapon is a dollar not spent on flashlights and raincoats. Every single dollar spent on a bomber or a submarine is a dollar not spent on a room with a door or on a lock for that door. I will return to the relevance of flashlights, raincoats, rooms, doors, and locks. Essentially, though, we cannot speak about human rights or about ending impunity for sexual violence without also speaking about the practical details of protecting and promoting human rights. We also cannot enter such discussions without speaking about disarmament, ending militarism, and establishing alternative notions of security—that is, true human security.

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¹ See U.N. Backgrounder, U.N. Dep't of Pub. Info., *Ending Impunity for Violence Against Women and Girls*, U.N. Doc. DPI/2451 (March 2007), available at www.un.org/events/women/iwd/2007/pdf/background.pdf.

The position from which I address this topic comes from my work monitoring and advocating for the full and effective implementation of U.N. Security Council resolutions on women, peace, and security, namely Resolution 1325² and Resolution 1820.³ These resolutions are part of our “ending impunity” toolbox; and certainly each of these resolutions contains explicit language on ending impunity and on sexual violence and human rights protection more broadly. In fact, Resolution 1820 has an almost exclusive focus on sexual violence from a protection standpoint.

To evaluate these resolutions or, indeed, to use them as tools to end impunity, it is important to take a historical perspective. The intention with which advocates argued for the adoption of these resolutions and some of their practical implications are very relevant in understanding and being sensitive to certain critical challenges. These are not simply challenges to implementation of the resolutions themselves—such as getting governments to demonstrate political will to bring about change. These are challenges to us as advocates working on ending violence against women and on advancing the women, peace, and security agenda. These are the challenges that we must face and address in order to ensure that the work we do in one part of the broad human rights arena does not damage or hinder efforts in another part. We do not talk enough about this hazard. We all think that if we are doing so-called good work, that it all adds up collectively to one massive amount of good work. We need to be more careful and more self-critical.

When non-governmental organizations, including WILPF, originally advocated for a Security Council resolution on women, peace, and security they did so as part of a move to ensure that international thinking about women and conflict was not simply about women as victims.⁴ This was certainly part of the larger and earlier feminist project to proclaim, and have recognized, women’s agency.⁵ But for peace organizations on the forefront of advocacy efforts, Resolution 1325 was affirmatively not about “making war safe for women.” It was about achieving recognition within the world’s paramount security forum that war has a differential and disproportionate impact on

² S.C. Res. 1325, U.N. Doc. S/RES/1325 (Oct. 31, 2000).

³ S.C. Res. 1820, U.N. Doc. S/RES/1820 (June 19, 2008).

⁴ For some of the history of Resolution 1325, see PeaceWomen, UNSC Resolution 1325 Index, <http://www.peacewomen.org/un/UN1325/1325index.html> (last visited June 15, 2009).

⁵ See Diana Meyers, *Feminist Perspectives on the Self*, in THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Edward N. Zalta ed., 2009), <http://plato.stanford.edu/archives/spr2009/entries/feminism-self/>.

women.⁶ But perhaps more importantly, it was about acknowledging women's role in conflict prevention⁷ and in conflict resolution and peacebuilding.⁸ Resolution 1325 was about ensuring women's full and effective participation in decision-making, including in the arenas of so-called hard security.⁹

The focus on women's participation, which I see as a core human rights principle, was critical for women, peace, and security advocates when the resolution was adopted in October 2000, and it remains so almost a decade later. This fact presented challenges when, in early 2006, advocacy groups began to lobby the Security Council in earnest to address sexual violence in the context of conflict in a more focused way.¹⁰ These efforts ultimately culminated in the United States—during its presidency of the Security Council in June 2008—putting forward a resolution on sexual violence in conflict.¹¹ This was not, however, a process free of controversy, and many concerns were raised.

One important question raised by advocates was: why focus on sexual violence?¹² Critics of such an approach argued that Resolution 1325 provided a broad and fairly comprehensive framework for a range of issues and singling out one issue was both arbitrary and perhaps even dangerous. Some believed that this focus would take away from the powerful breadth and depth of Resolution 1325.¹³ They argued that it would diminish the importance of Resolution 1325 by reducing the women, peace, and security agenda to issues of sexual violence and victimhood again. This was seen as an approach that

⁶ The Secretary-General, *Report of the Secretary-General on Women, Peace and Security*, ¶¶ 6–7, delivered to the Security Council, U.N. Doc. S/2002/1154 (Oct. 16, 2002).

⁷ The resolution is unfortunately weak in this aspect, and no one wants to talk about prevention, arguably because it would put arms manufacturers out of business.

⁸ Benita Ferrero-Waldner & Margot Wallström, *Women: Stabilising an Insecure World*, EURACTIV.COM, <http://www.euractiv.com/en/social/europe/women-stabilising-insecure-world/article-170825> (last visited June 15, 2009).

⁹ *Id.*

¹⁰ NGO Working Group on Women, Peace and Security, NGOWG Issues Statement on the 53rd Session of the Commission on the Status of Women, <http://www.womenpeacesecurity.org/> (last visited June 15, 2009).

¹¹ *UN: Finally, a Step Toward Confronting Rape in War: Security Council Takes Action to Identify and Help End Sexual Violence*, HUMAN RIGHTS WATCH, June 18, 2008, <http://www.hrw.org/en/news/2008/06/18/un-finally-step-toward-confronting-rape-war>.

¹² I have previously discussed the following issues in Sam Cook, *New Resolution Tackles Sexual Violence in Conflict*, 68 PEACE & FREEDOM, Fall 2008, at 8; Sam Cook, *Security Council Resolution 1820: A Move to End Sexual Violence in Conflict*, 1325 PEACEWOMEN E-NEWS, June 2008, at 4, <http://www.peacewomen.org/news/1325News/Issue102.pdf>.

¹³ This argument had been successfully used by a small group of NGOs in 2006 to block an earlier attempt to adopt a similar resolution.

tried to make war safe for women—reducing the central tenants of participation and agency and ignoring the key goal of conflict prevention.

The importance of the larger goal of ensuring women's effective and full participation in peace and security issues is undeniable. But the reality is (and this is where we have to respect our foremothers in the women's movement but also say "we've moved on") that women are not either victims or agents. Saying that a woman is a victim of sexual violence does not deny her agency. It is a false dichotomy. Many women who are powerful agents of change have also been affected by sexual violence or have lived under the threat of violence, which can constrain their lives sometimes more than being a physical victim does. But this does not define them as mere victims. Furthermore, we need to challenge the insistence of focusing on women as agents in ways that somehow ignore that sexual violence and war are very bad things. We should not focus so much on treating war as an opportunity for agency to the extent that we forget how horrific and unacceptable it is because of what it does to human beings.

The victim-agent dichotomy also obscures the fact that the issues of participation and violence are inextricably linked. We must recognize that sexual violence is both a cause and consequence of low levels of women's participation in all decision-making and, in fact, participation in day-to-day life. Participation is not just about access to government or the right to vote but also about participation in the fullness of life and in very basic activities. As has been heard time and again from women's rights activists in conflict areas like the Democratic Republic of Congo (DRC), sexual violence does more than discourage political engagement. This violence, and more particularly the fear thereof, holds communities hostage and prevents access to markets, water-points, and schools. Of course, unless women and gender equality concerns are present at the highest levels of decision-making, it is unlikely that attempts to eliminate this violence will be successful. However, addressing the problems posed by the interconnected issues of sexual violence and participation is not an easy sequential or separable exercise. First, women's participation is not just a high level concept. Women must be included in discussions and decisions about their security needs and concerns; men with guns walking around deciding how to protect women without actually asking them what their needs are is bound to fail. Women also need to be involved in the design of strategies and programs for their protection. At the same time, it is also necessary to act to provide physical protection to prevent and respond to sexual violence as it is happening.

The challenges to advocating for a Security Council resolution relating to sexual violence went beyond the issues of agency and victimhood raised by women, peace, and security advocates. Others from the broader women's movement working on issues of violence against women asked: why *sexual violence in conflict*? Some activists working on ending violence against women in all its forms argued that focusing on violence against women in times of conflict diminished the importance of combating violence against women in times of peace and, therefore, was potentially damaging to the broader agenda. On this latter point, I agree, and it is one of the challenges to us as advocates. In framing the discourse, we must exercise caution and continue to stress the common core causes of such violence in both peace and war. We need, in our advocacy, to ensure that violence against women in times of peace not become normalized through our sensationalizing sexual violence in war. Many human rights activists use the power of sensationalism for attention and media coverage, which can be very useful but also very dangerous. The danger of sensational headlines and campaign slogans does not lie only in normalizing other forms of violence. There is also the risk that such approaches may reinforce beliefs that make rape a powerful tool of war in the first place. I think it is necessary to question the notion that rape in war is the very worst thing that can happen to a woman and is something from which she can never recover. The more these sorts of messages reinforce the belief that raping a woman is equivalent to "raping a nation,"¹⁴ or that raping women is equivalent to "raping our greatest resource,"¹⁵ the less chance I believe we have of eventually ending this type of violence.

While it is important carefully to draw the links between sexual violence in conflict and that which occurs in times of so-called peace, the conflict setting brings a number of differentiating factors into play. Sexual violence is employed to particular purpose within conflict; there are additional legal instruments and frameworks that become relevant; and the actors who can or should address it are different.¹⁶ Sexual violence is deployed as a strategy and method of warfare to terrorize, demoralize, and displace communities, and to

¹⁴ This quote comes from a documentary film that advocates an end to sexual violence in the DRC.

¹⁵ This slogan comes from a popular campaign to end rape in the DRC. See V-Day, Stop Raping Our Greatest Resource, Power to Women and Girls of DRC, <http://newsite.vday.org/drcongo> (last visited June 15, 2009).

¹⁶ See generally Kelly D. Askin, *Prosecuting Wartime Rape and other Gender-Related Crimes Under International Law: Extraordinary Advances, Enduring Obstacles*, 21 BERKELEY J. INT'L L. 288 (2003) (outlining the major international humanitarian law instruments and describing their gradual application to sexual violence against women in times of conflict).

“injure, degrade, intimidate and punish affected populations.”¹⁷ Many advances have been made in recognizing that sexual violence is used in this way, and that this can constitute a violation of international law.¹⁸ The important point for present purposes is that the conflict setting brings a key actor to the fore: the U.N. Security Council.

A recent study by the U.N. Secretary-General noted that there are multiple actors engaged in ending violence against women, whatever the context.¹⁹ Certainly, many of the same actors have a role to play in addressing sexual violence that occurs both within and outside conflict. As a representative of the Mission of the United Kingdom to the United Nations, discussing this issue in a 2007 open debate on women, peace, and security, remarked, “Conflict is the business of the Council.”²⁰ If this is the case—and the U.N. Charter makes it clear that it is²¹—then what are the Security Council’s obligations in relation to addressing sexual violence?

Certainly Resolution 1325 recognizes the gendered impact of war, explicitly addressing sexual violence in two of its operative paragraphs and referencing relevant international human rights and humanitarian law.²² From these provisions, it appears that sexual violence is an issue that the Security Council takes particularly seriously. However, most of the obligations mentioned are fulfilled by governments and by parties to armed conflict.²³ What, then, are the Security Council’s own commitments? To what obligations can human rights advocates hold it?

A good starting point is to go beyond the text of the resolution and look to the commitment made by members of the Security Council to integrate Resolution 1325 into their daily work. As noted by the NGO Working Group

¹⁷ Security Council, Letter dated 16 June 2008 from the Chargé d’affaires a.i. of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council, Annex, *Women Targeted or Affected by Armed Conflict: What Role for Military Peacekeepers?* (Summary of Wilton Park Conference, May 27–29, 2008), 3, U.N. Doc. S/2008/402 (June 18, 2008) [hereinafter Wilton Park Conference].

¹⁸ See, e.g., Askin, *supra* note 18, at 296–300; Kelly D. Askin, *The Quest for Post-Conflict Gender Justice*, 41 COLUM. J. TRANSNAT’L L. 509, 509–11 (2003); see also Rhonda Copelon, *Gender Crimes as War Crimes: Integrating Crimes Against Women into International Criminal Law*, 46 MCGILL L.J. 217 (2000).

¹⁹ The Secretary-General, *In-depth Study on All Forms of Violence Against Women: Report of the Secretary-General*, ¶ 372, delivered to the General Assembly, U.N. Doc. A/61/122/Add.1 (July 6, 2006).

²⁰ U.N. Sec. Council, *5766th Meeting* at 17, U.N. Doc. S/PV.5766 (Oct. 23, 2007).

²¹ See U.N. Charter art. 24, para. 1.

²² See S.C. Res. 1325, *supra* note 2, ¶¶ 9–11.

²³ *Id.*

on Women, Peace and Security (WPS), the resolution “makes the pursuit of gender equality relevant to every single Security Council action, ranging from elections to disarmament efforts,” and by adopting it, the Council commits to “include references to women and a gender perspective *in all Security Council resolutions, UN mission mandates and reports.*”²⁴

The significance of this implication is even clearer in light of the broad role of the Security Council. The U.N. Charter directs the Security Council to maintain international peace and security²⁵ and to act against countries waging war through illegal methods.²⁶ This directive alone makes sexual violence in conflict relevant to its mandate. As part of this broad mandate of the Security Council, and critical to ending impunity, are the Security Council’s mandates to U.N. peacekeeping missions and the reports that these missions generate.²⁷ U.N. peace operations, through their direct engagement in countries and their role in maintaining security and protecting civilians, can play a crucial role in preventing, providing protection from, and responding to sexual violence. The Security Council’s integration of the commitments within Resolution 1325 into these missions, therefore, is of some significance. Even the simple directive in a mission’s mandate to take a gender perspective when fulfilling its functions, if interpreted properly, can be very powerful. This approach encompasses a gender perspective not only in the protective functions of the peacekeeping missions, but also in their role in elections, security sector reform, support of the rule of law, and so on.

This then returns me to looking at issues more narrowly and in very practical terms. What, after all, does it mean to take a gender perspective? Long papers have been written on the subject, but it is not rocket science. In essence, it is about asking a very simple question and then carefully considering the response: does a particular policy, program, action, or budget decision affect men and women differently? This is where those flashlights, raincoats, and rooms with doors come into play. Many anecdotes circulate that explain, in concrete terms, what it means to take a gender perspective and what

²⁴ WPS, PEACE AND SECURITY, FROM LOCAL TO GLOBAL, MAKING PEACE WORK FOR WOMEN 2 (2005). WPS is a core coalition of non-governmental organizations that advocated for Resolution 1325 and continues to monitor its implementation. NGO Working Group on Women, Peace and Security, About Us, <http://www.womenpeacesecurity.org/about> (last visited June 15, 2009).

²⁵ U.N. Charter art. 24, para. 1.

²⁶ U.N. Charter art. 39.

²⁷ The Security Council is responsible for the overall political direction of these peace operations, and its resolutions provide for their mandate and scope. Dyan Mazurana et al., *Introduction to GENDER, CONFLICT, AND PEACEKEEPING* 1, 18 (Dyan Mazurana et al. eds., 2005).

the consequences of not doing so are. One such anecdote concerns a U.N. peacekeeping mission in a country with a high prevalence of sexual violence. A visiting researcher questioned the police about a pattern of attacks at night and in inclement weather. The police admitted that patrols in such conditions were limited, and thus the risk of violence was indeed higher. The reason for the limited patrols? The police were unwilling to patrol at night and in bad weather because they did not have flashlights and raincoats; there was no money provided for these in their budget.²⁸ Such simple examples abound, and many very real, though seemingly insignificant, obstacles are overlooked as those engaged in reform programs focus on high-level issues.

For instance, Security Sector Reform (SSR)—an increasingly visible field of activity²⁹—is not, in a human rights framework, just about vetting police personnel in new regimes for possible involvement in human rights violations by, for example, ridding the forces of those responsible for sexual violence. Taking a gender perspective in SSR can be much simpler: when a woman goes to a police station to report a rape, is there a woman police officer to whom she can speak? For a variety of reasons, most women are more comfortable speaking to a woman in such circumstances. Is there somewhere she can report this violation in privacy—is there a room with a door? And, in those rare cases when a perpetrator is caught and convicted, do the prison doors have locks? In spending money on vast and expansive programs for security and justice sector reform, is anyone providing a budget for putting locks on the prison doors? Unfortunately, in many cases the answer to these questions is no.³⁰ And so I ask, what is the point in talking about ending impunity if the consequences for perpetrating sexual violence are, quite literally, an open door? We can talk about high-level concepts, but it also comes down to quite

²⁸ U.N. Dev't Fund for Women, Peacebuilding Commission—Working Group on Lessons Learned, Gender and Peacebuilding: Enhancing Women's Participation 1 (meeting minutes, Jan. 29, 2008), http://www.womenwarpeace.org/webfm_send/1613.

²⁹ Arnold Luethold, *Security Sector Reform in the Arab Middle East: A Nascent Debate*, in REFORM AND RECONSTRUCTION OF THE SECURITY SECTOR 93, 93 (Alan Bryden & Heiner Hänggi eds., 2004). Security sector reform is “a process of assessment, review and implementation as well as monitoring and evaluation led by national authorities that has as its goal the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect for human rights and the rule of law.” The Secretary-General, *Securing Peace and Development: The Role of the United Nations in Supporting Security Sector Reform*, ¶ 17, delivered to the Security Council and the General Assembly, U.N. Doc. S/2008/39, A/62/659 (Jan. 23, 2008).

³⁰ *Rape as a Weapon of War: Accountability for Sexual Violence in Conflict: Hearing Before the Subcomm. on Human Rights and the Law of the S. Comm. on the Judiciary*, 110th Cong. (2008) (testimony of Lisa F. Jackson, Documentary Maker and Director of *The Greatest Silence: Rape in the Congo*), available at http://judiciary.senate.gov/hearings/testimony.cfm?id=3225&wit_id=7079.

practical matters, many of which are matters in which peacekeeping missions are involved.

Ensuring that peacekeeping missions are taking a gender perspective and that the U.N. Security Council meets its commitment to mandate this effort is an important starting point. However, the Security Council has not consistently taken opportunities to mainstream gender into its work, and its response to sexual violence has been limited and ad hoc. There have been, for example, many strong statements made—in Security Council Presidential Statements and in debates of the Council by individual member states.³¹ But until the issue is addressed consistently and substantively in country-specific situations, and until peacekeeping missions are required to realize these commitments to gender mainstreaming, these statements are of little value. The advocacy to have the Security Council move beyond rhetoric has been challenging and is by no means complete. The challenges faced provide a background and partial explanation for why Resolution 1820 on women, peace, and security looks the way it does.

One of the objections from certain members of the Security Council, when the Resolution was first put forward, was essentially the same one heard from some in civil society: why do we need to focus on sexual violence in conflict? The ways in which this question was posed and the various reasons given for a negative response are an interesting lesson in dealing with the successes of the human rights discourse. In fact, the success of the women's movement in having violence against women recognized as a human rights issue has been used against us. Some Security Council members argued—albeit not in public—that since they agreed that violence against women is a human rights issue, it was an issue better dealt with in the U.N. Human Rights Council. This response, for various reasons both principled and political, is less than comforting.

A more common problem we faced—in advocating for action on sexual violence in country-specific situations—was that some Security Council members claimed not to have credible or reliable information or evidence of such violence occurring. For many of us, it may seem sufficient to hear from

³¹ See, e.g., Press Release, Security Council Presidential Statement Emphasizes Security Sector Reform, U.N. Doc. SC/9327 (May 12, 2008); Press Release, Presidential Statement Reaffirms Commitment to Resolution 1325 (2000), Says Decision-Making Role in Conflict Prevention, Resolution Must Be Increased, U.N. Doc. SC/8967 (Mar. 7, 2007); U.N. SCOR, 60th Sess., 5294th mtg. at 16, 21, 25, 27, U.N. Doc. S/PV.5294 (Oct. 27, 2005).

survivors about their experiences, or to read reports from reputable monitoring sources such as Amnesty International and Human Rights Watch, to establish the existence of a problem. But the sources of information on which the Security Council generally makes its assessments of the security situation in a country—and on which it bases its decisions about the appropriate role for a peacekeeping mission—are limited to the Secretary-General and his or her reports to the Council.³² The importance and need for these reports to contain information on issues affecting women in conflict is clear. The Security Council itself has made calls for such reporting in Resolution 1325 and in subsequent Presidential Statements.³³ Despite this recognition, however, the reporting on sexual violence in the Secretary General's reports to the Security Council has been inconsistent and limited.³⁴

The reasons for this problem are not entirely clear or simple—nor really the point here. There are, however, issues regarding the reporting chain from within the peacekeeping missions to the U.N. Secretariat, and problems faced by gender units in ensuring that information on sexual violence, if available, is prioritized and maintained in the limited word count of a final report. Whether

³² U.N. Security Council, *Provisional Rules of Procedure of the Security Council*, rules 6, 7, U.N. Doc. S/96/Rev.7 (Dec. 21, 1983). “Only items which have been brought to the attention of the representatives on the Security Council in accordance with rule 6 . . . may be included in the provisional agenda.” *Id.* rule 7.

³³ See S.C. Res. 1325, *supra* note 2, ¶ 17 (requesting the Secretary-General, “where appropriate, to include in his reporting to the Security Council progress on gender mainstreaming throughout peacekeeping missions and all other aspects relating to women and girls”); President of the Sec. Council, *Statement by the President of the Security Council, delivered to the Security Council*, U.N. Doc. S/PRST/2004/40 (Oct. 28, 2004) (requesting that “appropriate attention [be] given to the issue of gender-based violence in all future reports to the Council”).

³⁴ There are inconsistencies in reporting between countries and over time, not all of which can be accounted for by the fact of actual differences in levels of violence. This is seen in the case of the Secretary-General's reporting on the Democratic Republic of Congo (DRC) and the U.N. Organization Mission in Congo (MONUC). In quarterly reports from 2000 to 2003, three out of twelve reports contained no information on incidents or levels of sexual violence, and the remainder each contained no more than two sentences dealing with the issue. The Secretary-General, *Report of the Secretary General on the United Nations Organization Mission in the Democratic Republic of the Congo*, ¶¶ 69–77, *delivered to the Security Council*, U.N. Doc. S/2005/506 (Aug. 2, 2005). Reports from 2004 and 2005, while noting the seriousness of the issue of sexual violence, provide little analysis and spend considerably more time examining the issue of sexual exploitation and abuse by U.N. personnel. *Id.* While admittedly a serious problem, abuse by U.N. personnel is far less extensive than sexual violence committed by other parties or as a war tactic. One 2004 report devoted eight paragraphs to sexual exploitation and abuse by U.N. personnel, including measures taken to address it, and devoted only a few sentences spread out over three paragraphs to sexual violence more broadly (a reporting trend that continues in the case of MONUC and other peacekeeping missions). *Id.* Until late 2007, this very limited reporting on sexual violence remained a feature of reporting on MONUC's mandate. This was the case despite the fact of extraordinarily high levels of sexual violence, particularly in the east of the country, throughout the reporting periods. The Secretary-General's reports on MONUC are, unfortunately, not an exception.

peacekeeping missions have the capacity or required skills for the ethical and secure collection of data is also questionable, and there is no clarity on what types of data might be most useful. The essential point, however, is that this reporting is crucial to peacekeeping missions whose mandate it is to address the problem of sexual violence. If information on sexual violence is absent when the Security Council sets peacekeeping mandates, the mission is not formally required to work on the issue,³⁵ and if peacekeeping missions report on the specified areas of their mandate, then they do not report on sexual violence—a “chicken and egg” scenario develops.

Even where peacekeeping missions have had some sort of mandate to address sexual violence,³⁶ little information on fulfillment of this mandate or the extent of the problem has emerged. Of course, the Security Council has not made a habit of inquiring about the absence of this information and what this might signify. It also then, by implication, has not sought to ensure that peacekeeping missions and their senior staff are accountable to their mandates. This all creates a tangled web of hesitancy to act, poor information flow, and ill-informed responses—each of these factors exacerbating the other. The result is that in fulfilling its role of maintaining international peace and security, the Security Council fails to take into account a significant security threat of particular relevance to women.

One of the first steps for advocates was to think of ways to break this cycle and break down the objections. Thus began some of the advocacy that, almost surprisingly, resulted in the adoption of Security Council Resolution 1820 in June 2008. I would like to touch on some of the key aspects of Resolution 1820, in particular those that address problems we raised in advocating for action to address sexual violence.

The first important issue was to block future objections and convince Security Council members that sexual violence in conflict was indeed within their purview, that it can constitute a matter of international peace and security.

³⁵ Where mandates are not specific, there is little chance that peacekeepers will seek to address issues of sexual violence in circumstances of stretched resources and capacity, particularly where this would require mission staff to take any measure of political risk. As the findings of a recent conference on the role of military peacekeepers in responding to sexual violence note: “Mandate ambiguity, coupled with fear of censure when mistakes are made, can create a disincentive to innovative action to protect civilians. Strong and specific mandates, backed by adequate resources, may stimulate strong and specific responses.” Wilton Park Conference, *supra* note 19, at 9.

³⁶ *See, e.g.*, S.C. Res. 1842, pmb1., U.N. Doc. S/RES/1842 (Oct. 29, 2008) (renewing mandate of peacekeeping mission in Côte d’Ivoire).

The Council recognized this fact in the first operative paragraph of the Resolution, where it:

[s]tresses that sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security, affirms in this regard that effective steps to prevent and respond to such acts of sexual violence can significantly contribute to the maintenance of international peace and security, and expresses its readiness, when considering situations on the agenda of the Council, to, where necessary, adopt appropriate steps to address widespread or systematic sexual violence.³⁷

In terms of future actions, the Security Council affirmed its intention to consider taking measures against parties who commit rape and other forms of sexual violence in armed conflict when renewing sanctions regimes.³⁸ It also provided explicit examples of possible measures to ensure protection from sexual violence.³⁹ These examples include “debunking myths that fuel sexual violence, vetting armed and security forces to take into account past actions of rape and other forms of sexual violence, and evacuation of women and children under imminent threat of sexual violence to safety.”⁴⁰ The first of these measures is an innovation, in terms of language and concepts, for a resolution from this body.

Another important feature of Resolution 1820 is its recognition that sexual violence can constitute a breach of international law.⁴¹ The attendant newspaper headlines proclaimed, “UN Classifies Rape a ‘War Tactic,’”⁴² and “UN Security Council Resolution to End Rape as Weapon of War,”⁴³ but they are incorrect. Resolution 1820 does not actually make rape or any other form of sexual violence a war crime, crime against humanity, or constitutive act with respect to genocide, but it does note that such violence can constitute

³⁷ S.C. Res. 1820, *supra* note 3, ¶ 1.

³⁸ *Id.* ¶ 5.

³⁹ *Id.* ¶ 3.

⁴⁰ *Id.*

⁴¹ *Id.* ¶ 1.

⁴² *UN Classifies Rape a ‘War Tactic,’* BBC NEWS, June 20, 2008, <http://news.bbc.co.uk/2/hi/americas/7464462.stm>

⁴³ *UN Security Council Resolution to End Rape as Weapon of War*, PHYSICIANS FOR HUMAN RIGHTS, June 26, 2008, <http://physiciansforhumanrights.org/library/statement-2008-6-26.html>.

these crimes.⁴⁴ It takes note of existing international law, although it does not include explicit references to sexual violence as a form of torture or to the inclusion of crimes of sexual violence in the statute for the International Criminal Court—omissions, no doubt, driven by the sponsoring U.S. government’s attitude toward these two issues. Resolution 1820 does, however, emphasize and reiterate previous calls to end impunity—both at the international and national level—and in language that is stronger than Resolution 1325. Resolution 1820 “stresses the need for the exclusion of sexual violence crimes from amnesty provisions in the context of conflict resolution processes.”⁴⁵

Resolution 1820 explicitly requests that the Secretary-General include information and recommendations on the protection of women and girls in his or her country-specific reports to the Security Council.⁴⁶ It also requests that the Secretary-General provide an extensive report on the implementation of Resolution 1820, information on the use of sexual violence (including prevalence and trends), strategies to prevent such violence, and benchmarks for measuring progress toward these goals.⁴⁷ The request for the Secretary-General to report on his or her plans for improving the flow of information on sexual violence is significant and goes to the root of the problem of the Security Council’s inattention to the issue. A response to this request in the form of improved systems for information flow hopefully will contribute to a significantly improved response to sexual violence from the Security Council.

Resolution 1820 emphasizes the importance of women’s participation and reaffirms the importance of their role in the prevention and resolution of conflicts and in post-conflict peacebuilding.⁴⁸ It likewise recognizes the importance of their full participation in peace and security matters.⁴⁹ Significantly, the resolution calls attention to the link between sexual violence and women’s participation. The Security Council noted in the preamble that it was:

[d]eeply concerned also about the persistent obstacles and challenges to women’s participation and full involvement in the prevention and resolution of conflicts as a result of violence, intimidation and

⁴⁴ S.C. Res. 1820, *supra* note 3, ¶ 4.

⁴⁵ *Id.* (emphasis omitted).

⁴⁶ *Id.* ¶ 9.

⁴⁷ *Id.*

⁴⁸ *Id.* ¶ 12.

⁴⁹ *Id.*

discrimination, which erode women's capacity and legitimacy to participate in post-conflict public life, and acknowledging the negative impact this has on durable peace,⁵⁰ security and reconciliation, including post-conflict peacebuilding.

The operative parts of the resolution also reference the importance of participation to some extent. In demanding that parties to armed conflict take appropriate protection measures and that the Secretary-General facilitate dialogue to address the issue in the context of conflict resolution, Resolution 1820 requires "taking into account, inter alia, the views expressed by women of affected local communities."⁵¹ The Secretary-General and U.N. entities are requested to develop protection mechanisms in relation to refugee and internally-displaced persons' camps, and in disarmament, demobilization, reintegration, justice, and security sector reform processes.⁵² These mechanisms should develop "through consultation with women and women-led organizations," albeit with the weakening proviso that this be done "as appropriate."⁵³

Resolution 1820 also emphasizes the role that the U.N. Peacebuilding Commission can play in addressing sexual violence through "ensuring consultation and effective representation of women's civil society in its country-specific configurations."⁵⁴ More broadly, it urges the Secretary-General and his or her envoys to include women in peace processes and encourages parties to attend such talks to facilitate the full and equal participation of women.⁵⁵ Finally, in developing a global report, the Secretary-General is requested to include "appropriate input from United Nations implementing partners in the field,"⁵⁶ including women's groups and other non-governmental organizations. Other important provisions explicitly request the training of personnel, including pre-deployment training, and the development and strengthening of response capacity of national institutions (including judicial and health systems) and local civil society networks.⁵⁷

While Resolution 1820 is not perfect, and while it alone does not constitute effective action to end sexual violence, it is an important and welcome step.

⁵⁰ *Id.* pmb1. (emphasis omitted).

⁵¹ *Id.* ¶ 3.

⁵² *Id.*

⁵³ *Id.* ¶ 10.

⁵⁴ *Id.* ¶ 11.

⁵⁵ *Id.*

⁵⁶ *Id.* ¶ 15.

⁵⁷ *Id.* ¶¶ 7–8.

Resolution 1820 is another tool to end impunity and to bolster our broader work on Resolution 1325 to drive forward the women, peace, and security agenda. In all of this, we must remain vigilant and pay attention to the small and seemingly mundane details—those details that make the practice of human rights law a reality. We must not lose sight of the larger context in which these resolutions exist, and if we are serious about human rights, we must continue to work to end militarism and conflict and bring peace.

