

HUMAN RIGHTS AND PREVENTION UNDER SECURITY COUNCIL RESOLUTION: 1325

Introduction

[SCR 1325](#) was unanimously adopted on 31st October 2001. Unlike Resolutions passed under Chapter VII powers, SCR 1325 is to be complied with by agreement and has no enforcement mechanism. This has proved to be problematic. The level of implementation of the Resolution is of serious concern, to the extent that overall the representation of women in peace negotiations has actually fallen since 2000 and the level of violence, particularly sexual violence has continued unabated.

The Resolution does not exist in a legal vacuum, however. It is part of an existing legal framework of both international humanitarian law and human rights with their respective enforcement mechanisms. SCR 1325 has been followed by three additional resolutions: 1820, 1888 and 1889, which together form the Women Peace and Security agenda. Within these resolutions specific mention is made to human rights and in particular, to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹.

Prevention

In general terms there has been less focus on the prevention element of SCR1325; it is mentioned only once in the resolution itself and in the context of increasing the representation of women in existing mechanisms aimed at prevention. The perception being, perhaps, that if women can participate in decision making then prevention of conflict will automatically follow. This is to adhere to a stereotype of the role women play in society and neglects economic, socio-political and other dynamics which impact on how women can access and use power.

There is a clear need to situate 1325 in a wider context of equality and non-discrimination contained within Human Rights Law. Inter alia these provide for guarantees as to participation in public life and in systems of governance.

One of the major reasons for the continued under representation of women in political life, is the highly gendered nature of family and work relations. Women are the major care givers in society, are more likely to work in the informal sector, and have less access to remunerated employment. Access to Economic, Social and Cultural rights; in particular, health, education, access to land and employment, are of fundamental importance in providing women with the possibility of participating in systems of governance.

Looking first at participation as an element of prevention: the Beijing Platform for Action (BPA) 1995 reinforced the existing legal framework and provided for a clear programme of action as to how to achieve progress. There is a strong argument, therefore, that whilst SCR1325 does not directly refer to the structural causes of women's inequality such as economic marginalisation, these are elements which must be addressed if SCR1325 can be implemented. A fundamental tenet of human rights is that of non-discrimination. By addressing inequality, and the intersection of discriminations faced by women (such as race, ethnicity, religion etc), both within the normative legal frameworks and through social and cultural practice, States increase the possibility of women's participation in governance and other structures.

¹ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

Participation in existing structures is a pre condition of women having a real political voice, and hence power, to prevent conflict. Research indicates that where the level of women in governance falls below 6% the potential for conflict increases exponentially.

Participation alone does not determine outcome, it is policies, programmes and laws over long periods of time which create the conditions in which conflict is more or less likely. Hence, although not explicit in SCR1325 reference must be made to the elements of BPA calling for the control of excessive arms expenditure, and the UN Charter which calls for “least diversion for armaments of the world’s human and economic resources” (Art 26).

In general terms, therefore, respect for International Law, human rights, equality, the rule of law, social justice and de- militarisation are pre conditions for the absence of conflict and are crucial elements of prevention.

Beyond just participation, the conflict prevention focuses on the incorporation of a gender perspective in preventing the emergence, spread and re-emergence of violent conflict and hence, implicitly calls for real gender analysis not just the numbers of women and men involved in decision making. This opens the potential for the development of indicators which use gender as a tool to understand the evolution from peace to conflict and once identified, this can lead to the development of early warning indicators with concrete responses which should assist in preventing conflict before it has to reach a critical stage and engage the attention of the Security Council.

The system both national and international, should be seen as an integrated whole which can be used to react to indications of instability and potential threat. These include: national legal systems and institutions, regional human rights mechanisms for Europe, Africa, and the Americas, the UN human rights mechanisms which would include the Treaty Bodies, the Special Procedures, the Human Rights Council, including its universal periodic review process, ability to pass resolutions appoint fact finding missions, commissions of enquiry, and special reports. It would also include the responses available to the Security Council; resolutions; PRSTs; missions; request inquiries; referrals to ICC all of which could themselves be seen as conflict prevention tools.

As rough guide to how this might work. If gender can actually be a diagnostic the indicators would need to look at the impact of policies programmes and laws on women and men and assess the impact, as per the BPA. Indicators would be systemic, proximate and immediate.

Systemic: e.g. the number of girls attending schools; a lack of girls in higher education reduces participation in employment, governance etc and defeats equality. This is an indicator which should be addressed to the Treaty Bodies in reports and under the UPR process of the HRC for security and recommendation. The UPR should be used and act as an early warning system to alert member states as to act on possible future crises and prevent conflict.

Proximate, e.g a change of regime leads to the banning of the girl child from school then this should be immediately drawn to the attention of a national human rights institution, if one exists and the relevant Special rapporteurs. It should be noted that reports of rapporteurs and of treaty bodies are automatically included in the UPR

Immediate: for example, an increase in attacks on human rights defenders Increase in domestic and other gender based violence, attacks on personal autonomy rights, different social behaviours.

Whilst the concept of the Responsibility to Protect has been under critical debate because of its potential as an interventionist model, this is to restrict its potential to work for non military solutions to growing instabilities, i.e. to fail to recognize its potential as a prevention tool, based

on human rights and within human rights mechanisms. Reference is made to the 2005 World Summit Outcome at which the concept of the Responsibility to Protect was endorsed, as an emerging legal doctrine (Resolution of the General Assembly 60/1 2005)

The former High Commissioner Louise Arbor, set out her view of what this doctrine means:

“... , the protection duty encompasses a continuum of prevention, reaction, commitment to rebuild and to punish, spanning from early warning, to diplomatic pressure, to coercive measures, to conflict resolution and post conflict reconstruction assistance as well as accountability for perpetrators. (Rene Cassin, Nobel Lecture, Trinity College Dublin November 23 2007)

It can be argued that the doctrine is rooted in human rights and international humanitarian law and that the standard is one of, “ due diligence” with the capacity of one State to influence another, resting predominantly on: geographical distance, the strength of political links as well as “links of other kinds” such as military and financial. Logically this would include trading links. The duty to act arises when the State has actual or constructive knowledge. Such knowledge arises in the Human Rights Council, or should, during the UPR, special sessions and reports from rapporteurs. The responsibility to act should lead to specific recommendations with commitments of support for those actions by States that can level the greatest amount of influence. Logically, there is no reason that what is done by those states is reported on in their own UPRs.

Conclusion

Whilst the Resolution of the Security Council makes certain demands, the Council itself is not concerned with how these demands are actually complied with; it is the end result that is of concern to the Council i.e. progress towards Peace and Security. That does not de-legitimize the arguments regarding human rights and the need to utilize their mechanisms to achieve the desired results, on the contrary. The system of human rights law, humanitarian law, regional and national law and the mechanisms which exist for their enforcement, must be considered as underpinning the overall work of the United Nations, from the Millennium Development Goals through to Security Council Resolutions. An understanding of how to use these mechanisms will contribute to the element of Prevention contained within the Resolutions, which comprise the Women, Peace and Security Agenda, increase participation and hence to a more gendered understanding of the nature of protection and security.

General resources:

United Nations, Security Council, *Resolution 1325 (2000) on “Women and peace and security,”* (2000).

Available at: [http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1325\(2000\)](http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1325(2000)).

United Nations, Security Council, *Resolution 1820 (2008) on “Women and peace and security,”* (2008).

Available at: [http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1820\(2008\)](http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1820(2008)).

United Nations, Security Council, *Resolution 1888 (2009) on “Women and peace and security,”* (2009).

Available at: [http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1888\(2009\)](http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1888(2009)).

United Nations, Security Council, *Resolution 1889 (2009) on “Women and peace and security,”* (2009).

Available at: [http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1889\(2009\)](http://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1889(2009)).