

COMPLEMENTS OF CEDAW:
U.S. FOREIGN POLICY COHERENCE
ON WOMEN’S HUMAN RIGHTS AND HUMAN
SECURITY

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In this hall, we come from many places, but we share a common future. No longer do we have the luxury of indulging our differences to the exclusion of the work that we must do together. . . . Because the time has come for the world to move in a new direction. We must embrace a new era of engagement based on mutual interests and mutual respect, and our work must begin now. . . . This Assembly’s Charter commits each of us, and I quote—to reaffirm faith in fundamental human rights, in the

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dignity and worth of the human person, in the equal rights of men and women.”¹

President Barack Obama, U.N. General Assembly, 2009

INTRODUCTION

This Article discusses a fundamental shift in American foreign policy announced by the first Obama administration for re-engaging in the United Nations (U.N.) and embracing women’s human rights at its core.² It is suggested that ratification of the U.N. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol is essential to cohesion and credibility of United States domestic and foreign policy.³ This foreign policy shift is characterized as an amalgam of human rights and human security—acknowledging the interests of non-Americans as well as Americans. Ratification of CEDAW—with its recent General Recommendation (GR) No. 30 on women in conflict prevention—is presented as an integral component to reinforcing the substantial U.S. leadership on implementing the suite of seven resolutions adopted by the U.N. Security Council (as of October 18, 2013) on the theme of Women, Peace and Security (WPS), which began with Security Council Resolution (SCR) 1325 in 2000.⁴

Part I of this Article builds the case for ratification of CEDAW from the platform of American global leadership on women’s equality, including support for CEDAW in the Carter and Clinton administrations, with linkage to U.S. leadership in the U.N. Security Council on defining and countering violence against women (VAW) and global sexual gender-based violence (SGBV) against women in

1. President Barack Obama, Address to the United Nations General Assembly: Responsibility for Our Common Future (Sept. 23, 2009), *available at* http://www.un.org/en/ga/64/generaldebate/pdf/US_en.pdf (quoting U.N. Charter pmb1).

2. THE WHITE HOUSE, NATIONAL SECURITY STRATEGY 38 (2010) [hereinafter NATIONAL SECURITY STRATEGY], *available at* http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf.

3. Convention on the Elimination of All Forms of Discrimination against Women, *opened for signature* Mar. 1, 1980, 1249 U.N.T.S. 13 (entered into force Sept. 3, 1981) [hereinafter CEDAW]; G.A. Res. 54/4, U.N. Doc. A/RES/54/4 (Oct. 15, 1999); THE UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN: A COMMENTARY (Marsha A. Freeman, Christine Chinkin & Beate Rudolf eds., 2012) [hereinafter CEDAW COMMENTARY].

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

conflict. With SGBV defined for the first time in SCR 1820 by the Security Council as a threat to international peace and security,⁵ links to CEDAW strengthened substantially in subsequent thematic resolutions supported by the Obama administrations—from SCR 1888 in September 2009 to SCR 2122 in October 2013.

Part II looks further at American responses to violence against women, including SGBV, as a major human security issue due to the profound and immense impact of these human rights violations. Coherence of American initiatives in countering global VAW through gender-equality-driven strategies is examined with reference to the fundamental shift in foreign policy promised by Secretary Clinton and confirmed by Secretary Kerry soon after he took office in 2013. It is noted that the seven resolutions (to the end of 2013) that constitute the WPS agenda of the U.N. Security Council align with American foreign policy on WPS and SGBV.⁶

The Article in Part II goes on to review American leadership on women's human rights and human security, as conveyed through those policies and the commitments evident in U.S. participation in developing and supporting the suite of WPS resolutions, leading from SCR 1325 in 2000 to the unanimous adoption of the seventh WPS resolution—SCR 2122. During the Open Debate on WPS, held October 18, 2013, the Security Council “*recognize[d] with concern* that without a significant implementation shift, women and women's perspectives will continue to be underrepresented in conflict prevention, resolution, protection and peacebuilding for the foreseeable future.”⁷ In his introductory remarks for the Open Debate on SCR 2122, Secretary-General Ban Ki-moon declared, “‘This is a matter of gender equality and human rights,’ . . . crucial to sustainable peace, economic recovery, social cohesion and political legitimacy.”⁸

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

6. Aisling Swaine, *Substantive New Normative Provisions on Women and Armed Conflict Concurrently Adopted by the United Nations Security Council and the CEDAW Committee*, ASIL INSIGHTS (Feb. 18, 2014), <http://www.asil.org/insights/volume/18/issue/5/substantive-new-normative-provisions-women-and-armed-conflict>.

7. S.C. Res. 2122, ¶ 15, U.N. Doc. S/RES/2122 (Oct. 18, 2013).

8. Press Release, Sec. Council, Security Council Adopts Resolution 2122 (2013), Aiming to Strengthen Women's Role in All Stages of Conflict Prevention, Resolution, U.N. Press Release SC/11149 (Oct. 18, 2013) (quoting Ban Ki-moon, Secretary General, United Nations, Opening Remarks at the Debate on S.C. Res. 2122 (Oct. 18, 2013)).

Part III returns for a closer look at the primary instrument in international law that addresses “gender equality and human rights”—CEDAW. Part III surveys arguments that a catalyst needed to complement and fuel the “significant implementation shift” specified by the Security Council in SCR 2122 could be American ratification of CEDAW (and its Optional Protocol), which is entirely consistent with current American foreign policy.⁹ Drawn from an invitational meeting between some members of the CEDAW Committee and some Member States on the Council in November 2013, there is a summary of CEDAW procedures that could be supportive of a significant implementation shift, derived from the “authoritative guidance” provided through the monitoring and reporting procedures in the CEDAW Treaty, with particular attention to the CEDAW Committee’s recent GR 30.¹⁰

The author argues that American ratification of CEDAW would boost chances for the fundamental shift promised in the first Obama administration¹¹ and for the significant implementation shift encouraged by the Security Council in adopting SCR 2122 in 2013—one so desperately needed by our world’s women. For that to happen, the Obama administration must follow through on promises to ratify CEDAW, and the political journey to ratification begins with the step of re-introducing the Treaty—with the CEDAW Optional Protocol—to the U.S. Senate. CEDAW is the missing tool in the chest of American instruments crafted for countering VAW and promoting women’s human rights and security—at home and beyond. June Zeitlin, director of the CEDAW Education Project at the Leadership Conference on Civil and Human Rights anticipates ““unprecedented opportunity to move forward on CEDAW and issues of women’s human rights”” through bipartisan cooperation among women senators, noting that the ““(current) 113th Congress has the highest number of women the U.S. Senate has ever achieved.””¹² There are significant credibility costs in further delay.

9. S.C. Res. 2122, *supra* note 7, ¶ 15.

10. For more information on CEDAW, the working methods of the CEDAW Committee, and the CEDAW Optional Protocol, see generally *Committee on the Elimination of Discrimination against Women*, UNITED NATIONS HUMAN RIGHTS, <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx> (last visited Apr. 10, 2014); CEDAW COMMENTARY, *supra* note 3.

11. Bob Egelko, *Obama Pledge on Treaties a Complex Undertaking*, SFGATE (Dec. 1, 2008, 4:00 AM), <http://www.sfgate.com/news/article/Obama-pledge-on-treaties-a-complex-undertaking-3259890.php>.

12. Thalif Deen, *New Push for U.S. to Ratify Major Women’s Treaty*, INTER PRESS SERVICE (Jan. 8, 2013), <http://www.ipsnews.net/2013/01/new-push-for-u-s-to->

In February 2013, on completing her term as America's first Ambassador-at-Large for Global Women's Issues, Melanne Verveer spoke frankly about U.S. failure to ratify CEDAW:

"There is an expectation that the United States is where it's at And yet we have not ratified the Convention to Eliminate Discrimination Against Women, and that is something that is imponderable to so many people around the world. We stand with a few pariah states in not having signed it, with Iran and Somalia . . . just a very handful. And yet we're pretty much are [sic] leaders in so many areas, but we have not done so and they don't understand."¹³

I. U.S. LEADERSHIP IN WOMEN'S HUMAN RIGHTS AND HUMAN SECURITY

A. Carter and Clinton Administrations

In fact, substantive American leadership on CEDAW can be traced back to when President Carter made the United States one of the first countries to sign CEDAW in Copenhagen on July 17, 1980, when sixty-four states signed.¹⁴ By September 3, 1981, "30 days after the twentieth member State had ratified it, the Convention entered into force—faster than any previous human rights convention had done."¹⁵

Making early connections between women's inequality and VAW, the Clinton administration accepted the Vienna Declaration and Programme of Action, adopted without vote by U.N. Member States, at the World Conference on Human Rights in Vienna on June 25, 1993,¹⁶ with the rallying cry from civil society that "women's

ratify-major-womens-treaty (quoting June Zeitlin, Dir. of the CEDAW Edu. Project at the Leadership Conference on Civil and Human Rights).

13. Lois Romano & Jonathan Allen, *On Women, Melanne Verveer Mostly Pleased with Progress*, POLITICO (Feb. 19, 2013, 10:52 AM), <http://www.politico.com/story/2013/02/on-women-melanne-verveer-mostly-pleased-with-progress-87782.html#ixzz2pa8Lb5lp> (quoting Melanne Verveer, U.S. Ambassador-at-Large for Global Women's Issues).

14. *Convention on the Elimination of All Forms of Discrimination against Women*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-8&chapter=4&lang=en (last visited Apr. 10, 2014); see also *Short History of CEDAW Convention*, UN WOMEN, <http://www.un.org/womenwatch/daw/cedaw/history.htm> (last visited Apr. 10, 2014) [hereinafter *Short History*].

15. *Short History*, *supra* note 14.

16. World Conference on Human Rights, June 14-25, 1993, *Vienna Declaration and Programme of Action*, U.N. Doc. A/CONF.157/23 (July 12, 1993). Paragraph 38 of the Vienna Declaration and Programme of Action confirmed that

rights are human rights.”¹⁷ Later that year, in the forty-eighth session of the U.N. General Assembly, a solid foundation for U.S. domestic VAW policy and foreign policy was established. The coming decade’s suite of Security Council resolutions addressing SGBV against women in conflict situations were previewed in the 1993 U.N. Declaration on the Elimination of Violence against Women:

Recognizing that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.¹⁸

The next year, the United States participated in the International Conference on Population and Development (ICPD 1994) held in Cairo, Egypt, in September 1994, which produced by acclamation from 179 States a Programme of Action for the next twenty years with “women’s empowerment” and reproductive rights at its core.¹⁹ At the 1995 U.N. Fourth World Conference on Women, the United States was among the 189 countries to adopt unanimously the Beijing Declaration and Platform for Action, which included, under the heading “Human [R]ights of [W]omen,” strategic objective I.1: “Promote and protect the human rights of women, through the full implementation of all human rights instruments, *especially the Convention on the Elimination of All Forms of Discrimination against Women*.”²⁰

“[v]iolations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law,” specifying that all such violations during conflict, including “murder, systematic rape, sexual slavery, and forced pregnancy, require a particularly effective response.” *Id.* ¶ 38.

17. This mantra of women’s rights advocates at the Vienna World Conference on Human Rights in 1993—“women’s rights are human rights”—became the key message in a widely reported speech by then First Lady Hillary Clinton on September 5, 1995, in Beijing at the U.N. Fourth World Conference on Women. Hillary Rodham Clinton, First Lady of the United States, Remarks for the United Nations Fourth World Conference on Women (Sept. 5, 1995), *available at* <http://www.un.org/esa/gopher-data/conf/fwcw/conf/gov/950905175653.txt>.

18. G.A. Res. 48/104, pmb., U.N. Doc. A/RES/48/104 (Dec. 20, 1993).

19. International Conference on Population and Development, Cairo, Egypt, Sept. 5-13, 1994, *Programme of Action of the International Conference on Population and Development*, U.N. Doc. A/CONF.171/13/Rev.1 (1995).

20. Fourth World Conference on Women, Beijing, China, Sept. 4-15, 1995, *Beijing Declaration and Platform for Action*, 89, 93, U.N. Doc. A/CONF.177/20/Rev.1 (1996) (emphasis added).

In 1997, as the first woman to serve as Secretary of State, Madeleine Albright promised that “we will persist in our effort to persuade key members of the Senate—and they know who they are—that it is long past time for America to become party to the Convention on the Elimination of All Forms of Discrimination Against Women.”²¹

In 2000, during President Clinton’s second term, the Security Council adopted the landmark SCR 1325 on Women, Peace and Security.²² SCR 1325 was unprecedented in both process and content, marking the first time that the Council formally recognized that women bear the disparate impact of conflict and that the inclusion of women at all levels of decision making would contribute significantly to achieving sustainable peace. As explained by Ambassador Anwarul K. Chowdhury who, as the President of the U.N. Security Council in March 2000, led the initiative on 1325:

It was unfortunate that the intrinsic role of women in peace and security had remained unrecognised since the creation of the United Nations. For a long time, there has been an impression of women as helpless victims of wars and conflicts. Women’s role in fostering peace in their communities and beyond has often been overlooked. But on 8th of March 2000, that inexplicable silence of 55 long years was broken for the first time. The seed for Security Council resolution 1325 was sown.²³

Following adoption of SCR 1325, civil society advocates and U.N. agencies advanced the notion of synergy between the inclusive principles of the Resolution and the standards of the CEDAW Treaty as international law for gender-equality norms to be upheld in conflict and post-conflict situations. The combined mandate of SCR 1325 and CEDAW was seen as an expansive application of international women’s human rights standards—central to maintaining peace and security. Where commitments in SCR 1325 tend to be broad and Security Council resolutions are questioned by some as having the force of international law, CEDAW is undisputedly the major legal instrument for women’s human rights—extending responsibilities of States parties to regulate non-state

21. Madeleine K. Albright, U.S. Sec’y of State, Remarks at 20th Anniversary Commemoration of the Bipartisan Congressional Caucus for Women’s Issues (Oct. 21, 1997), available at <http://1997-2001.state.gov/www/statements/971021a.html>.

22. S.C. Res. 1325, *supra* note 4.

23. Anwarul K. Chowdhury, *10 Years On, The Promises to Women Need to Be Kept*, NATO REV. (June 1, 2011), <http://www.nato.int/docu/review/2010/Women-Security/Women-resolution-1325/EN/index.htm>.

actors in conflict and in peace and providing concrete strategic guidance for actions to be taken:

SC resolution 1325 helps to broaden the scope of CEDAW's application by clarifying its relevance to all parties in conflict and in peace. CEDAW, in turn, provides concrete strategic guidance for actions to be taken on the broad commitments outlined in SC resolution 1325. Drawing on these instruments together will enable advocates to maximize the impact of norms and standards for gender equality in all conflict and post-conflict interventions.²⁴

B. Obama Administrations and CEDAW

A surge of cohesion would be added to American domestic and foreign policies on women's equality (human rights) and countering VAW, including SGBV (human security), if the United States ratified CEDAW—an action promised on more than one occasion by the Obama administration when Hillary Rodham Clinton served as Secretary of State:

President Obama and I believe that the *subjugation of women is a threat to the national security of the United States*. . . . It is also a threat to the common security of our world, because the suffering and denial of the rights of women and the instability of nations go hand in hand.

. . . .

These initiatives amount to more than an assortment of programs designed with women in mind. They reflect a *fundamental shift in U.S. policy*, one that is taking place in offices across Washington and in our embassies around the globe. But we are still called to do more—every single one of us. *The Obama Administration will continue to work for the ratification of CEDAW*. . . .

Now, I don't have to tell those of you who are Americans how hard this is. But we are determined, because we believe it is past time, to take this step for women in our country and in all countries.²⁵

When she spoke of how hard it is for the United States to ratify CEDAW, Secretary Clinton acknowledged the legacy of strong resistance personified by the late Republican Senator Jesse Helms of North Carolina, who, as chairman of the Senate Foreign Relations Committee from 1995 to 2001, refused even to hold hearings on

24. UNITED NATIONS DEV. FUND FOR WOMEN, CEDAW AND SECURITY COUNCIL RESOLUTION 1325: A QUICK GUIDE 4 (2006), available at http://www.unrol.org/files/CEDAWandUNSCR1325_eng.pdf.

25. Hillary Rodham Clinton, U.S. Sec'y of State, Remarks at the UN Commission on the Status of Women (Mar. 12, 2010) (emphasis added), available at <http://usun.state.gov/briefing/statements/2010/138333.htm>.

ratification of CEDAW, stating that the Treaty was “negotiated by radical feminists with the intent of enshrining their radical anti-family agenda into international law.”²⁶ Opposition remains. For example, concerns expressed by Steven Groves of the Heritage Foundation, in congressional testimony in 2010, included:

Beyond the dubious public diplomacy benefit that would allegedly be enjoyed by the United States upon ratification of CEDAW, it is difficult to determine how U.S. national interests would otherwise be advanced by participating in the central activity required by the treaty—reporting to the CEDAW Committee every four years regarding the U.S. record on women’s rights. The CEDAW Committee has for 30 years established a consistent record of promoting gender-related policies that do not comport with existing American legal and cultural norms and has encouraged the national governments of CEDAW members to engage in social engineering on a massive scale.²⁷

Resistance to CEDAW ratification is explained more fully by Janet Benshoof:

Although equal protection guarantees do not require positive structural remedies under the U.S. Constitution, this is not the case with international human rights laws. Most notably, the major human rights treaty for women, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), has an inclusive definition of equality that requires strict scrutiny of all laws negatively impacting women, and imposes obligations on states parties to undertake affirmative measures to eliminate systemic inequality. The strong equality guarantees of CEDAW stand in stark contrast to the truncated definitions of equality employed by the Supreme Court. Ratification of CEDAW, if taken seriously, would have a radical impact on American women’s right to equality.²⁸

In her 2010 speech quoted above, Secretary Clinton positioned ratification of CEDAW as consistent with American global leadership on gender equality within a human rights framework. She also identified “subjugation of women [as] a threat to the national security of the United States,” and in that speech, she identified American ratification of CEDAW as among the initiatives necessary

26. 146 CONG. REC. S3926 (daily ed. May 11, 2000) (statement of Sen. Helms).

27. Steven Groves, *Women’s Rights Are Human Rights: U.S. Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, HERITAGE FOUND. (Dec. 1, 2010), <http://www.heritage.org/research/testimony/womens-rights-are-human-rights>.

28. Janet Benshoof, *U.S. Ratification of CEDAW: An Opportunity to Radically Reframe the Right to Equality Accorded Women Under the U.S. Constitution*, 35 N.Y.U. REV. L. & SOC. CHANGE 103, 104 (2011) (footnotes omitted).

in making the “fundamental shift in U.S. policy” critical to success in addressing violence against women as a threat to international—and national—peace and security.²⁹

Clinton spoke of CEDAW ratification as part of the “fundamental shift in U.S. policy” underway in 2010.³⁰ In 2013, a “significant implementation shift” in countering the threat to international and national peace and security created by VAW in its many forms, but particularly SGBV was envisioned by the Security Council in unanimously adopting SCR 2122.³¹ American leadership is by no means the singular ingredient to countering SGBV, nationally and internationally, but the arc of American engagement bends toward ratification of CEDAW and its Optional Protocol as the logical and credible action for the United States to take. As CEDAW expert Pramila Patten observes, “There are strong linkages between CEDAW and thematic resolutions of the Security Council, in particular 1325, 1820, 1888, 1889, 1960, 1983, 2106 and 2122. All those resolutions are indeed very important political frameworks for advocating advocacy [sic] regarding women, peace and security . . . they have all been adopted unanimously.”³²

II. U.S. LEADERSHIP ON WOMEN, PEACE & SECURITY

In 2007, the United States led negotiations in the U.N. General Assembly on a Resolution entitled, “Eliminating rape and other forms of sexual violence in all their manifestations, including in conflict and related situations” that was adopted by consensus,³³ but—as was also the case with SCR 1325 where sexual violence was mentioned (in paragraphs 10 and 11)³⁴—the General Assembly Resolution did not contain strong language on rape as a weapon of war.³⁵ The United States came into the Security Council presidency in June 2008, after the 2007 Report of the Secretary-General on

29. Clinton, *supra* note 25.

30. *Id.*

31. S.C. Res. 2122, *supra* note 7, ¶ 15.

32. Pramila Patten, Chairperson, CEDAW Working Grp. on the Gen. Recommendations, Remarks at the Meeting with CEDAW Experts on the General Recommendations on Women in Conflict Prevention, Conflict, and Post-conflict Situations (Nov. 11, 2013), available at <http://www.gnwp.org/wp-content/uploads/2010/02/Pramila-Patten-Presentation-Meeting-with-CEDAW-Experts.pdf>.

33. G.A. Res. 62/134, U.N. Doc. A/RES/62/134 (Feb. 7, 2008).

34. S.C. Res. 1325, *supra* note 4, ¶¶ 10-11.

35. G.A. Res. 62/134, *supra* note 33.

women and peace and security on implementation of SCR 1325 had acknowledged that “much more remained to be done to overcome institutional and organizational challenges.”³⁶

Secretary of State Condoleezza Rice (in the Bush administration) chaired on behalf of the United States, which held the Security Council presidency in June 2008, when she introduced what became SCR 1820, Rice acknowledged that

there had long been dispute about whether sexual violence against women in conflict was [actually] an issue the Council was authorized to address. “I am proud that, today, we respond to that lingering question with a resounding ‘yes!’,” she said, adding that the world body was acknowledging that such violence was indeed a security concern. “We affirm that sexual violence profoundly affects not only the health and safety of women, but the economic and social stability of their nations . . .”³⁷

Expectations first articulated eight years before in SCR 1325 were extended and clarified when Rice proposed SCR 1820, with the Security Council acknowledging for the first time in a resolution that SGBV can be a tactic of war designed to achieve military and political objectives, necessitating both tactical and political responses.³⁸ As demonstrated in the following excerpt from the preamble to SCR 1820, it reinforced SCR 1325 by addressing both the conditions that prevent women from full and equal participation in peace building and by strengthening ongoing efforts to sustain the broader WPS agenda.

Recalling the inclusion of a range of sexual violence offences in the Rome Statute of the International Criminal Court and the statutes of the ad hoc international criminal tribunals,

Reaffirming the important role of women in the prevention and resolution of conflicts and in peacebuilding, and *stressing* the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution,

Deeply concerned also about the persistent obstacles and challenges to women’s participation and full involvement in the prevention and

36. U.N. Secretary-General, *Rep. of the Secretary-General on Women and Peace and Security*, ¶ 1, U.N. Doc. S/2007/567 (Sept. 12, 2007).

37. Press Release, Sec. Council, Security Council Demands Immediate and Complete Halt to Acts of Sexual Violence Against Civilians in Conflict Zones, Unanimously Adopting Resolution 1820 (2008), U.N. Press Release SC/9364 (June 19, 2008) (quoting Condoleezza Rice, U.S. Sec’y of State).

38. S.C. Res. 1820, *supra* note 5.

resolution of conflicts as a result of violence, intimidation and 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, security and reconciliation, including post-conflict peacebuilding.³⁹

Both SCR 1325 and SCR 1820 were decisions of the Security Council "to remain actively seized of the matter,"⁴⁰ consistent with its responsibility and discretion under the U.N. Charter, including its authority in Chapter VII to "determine the existence of any threat to the peace, breach of the peace, or act of aggression,"⁴¹ which came to include conflict-related sexual violence initially identified in SCR 1325 then, more specifically, in SCR 1820. These two resolutions not only raised awareness in the context of gender equality of specific concerns of women and girls affected by conflict, but also of interlocking constructive measures to address the long-range destabilization and devastation caused to whole societies by sexual violence in conflict. The complementarity of SCR 1325, SCR 1820, and CEDAW in countering SGBV has been noted by The Global Network of Women Peacebuilders:

Resolutions 1325 and 1820, and CEDAW share the following agenda on women's human rights and gender equality:

1. Demand women's participation in decision-making at all levels
2. Rejection of violence against women as it impedes the advancement of women and maintains their subordinate status
3. Equality of women and men under the law; protection of women and girls through the rule of law
4. Demand security forces and systems to protect women and girls from gender-based violence
5. Recognition of the fact that distinct experiences and burdens of women and girls come from systemic discrimination
6. Ensure that women's experiences, needs and perspectives are incorporated into the political, legal and social decisions that determine the achievement of just and lasting peace.⁴²

39. *Id.* at pmb1.

40. S.C. Res. 1325, *supra* note 4, ¶ 18; S.C. Res. 1820, *supra* note 5, ¶ 16.

41. U.N. Charter art. 39.

42. THE GLOBAL NETWORK OF WOMEN PEACEBUILDERS, ENSURING ACCOUNTABILITY TO UNSCR 1325 AND 1820 USING CEDAW REPORTING MECHANISMS (2010) [hereinafter ENSURING ACCOUNTABILITY], available at <http://www.gnwp.org/wp-content/uploads/2010/11/Cedaw-1325-1820-synergy2.pdf>.

A. Obama Administrations and WPS

With the election of Barack Obama, American leadership on countering SGBV, introduced through SCR 1820 in 2008, was continued when Secretary of State Hillary Rodham Clinton presided at the Security Council and introduced SCR 1888 for unanimous adoption in 2009:

[T]he challenge of sexual violence in conflict cannot and should not be separated from the broader security issues confronting this Council. It is time for all of us to assume our responsibility to go beyond condemning this behavior, to taking concrete steps to end it, to make it socially unacceptable, to recognize it is not cultural; it is criminal. And the more we say that over and over and over again, the more we will change attitudes, create peer pressure, and the conditions for the elimination of this violation.⁴³

SCR 1820 called for country-level commitments as part of implementing the WPS agenda set out in SCR 1325.⁴⁴ The Obama administration followed through with a National Action Plan on WPS, which was part of a more comprehensive foreign policy response:

Under the leadership of my Administration, the United States has made gender equality and women's empowerment a core focus of our foreign policy. This focus is reflected in our National Security Strategy, the Presidential Policy Directive on Global Development, and the 2010 U.S. Quadrennial Diplomacy and Development Review. Evidence demonstrates that women's empowerment is critical to building stable, democratic societies; to supporting open and accountable governance; to furthering international peace and security; to growing vibrant market economies; and to addressing pressing health and education challenges.⁴⁵

Under the title "Supporting the Rights of Women and Girls," the President's National Security Strategy of May 2010 affirmed support for universal rights and addressed global VAW:

Experience shows that countries are more peaceful and prosperous when women are accorded full and equal rights and opportunity. When those rights and opportunities are denied, countries often lag behind. Furthermore, women and girls often disproportionately bear the burden of crises and conflict. Therefore the United States is working with regional

43. Hillary Rodham Clinton, U.S. Sec'y of State, Opening Remarks by Secretary of State Hillary Rodham Clinton on the Adoption of a UNSC Resolution to Combat Sexual Violence in Armed Conflict (Sept. 30, 2009), *available at* <http://usun.state.gov/briefing/statements/2009/september/130054.htm>.

44. S.C. Res. 1820, *supra* note 5, at pmb1.

45. Exec. Order No. 13,623, 3 C.F.R. 296 (2012).

and international organizations to prevent violence against women and girls, especially in conflict zones.⁴⁶

In 2010, the Presidential Policy Directive on Global Development was signed—“the first of its kind”—naming “development as a core pillar of American power.”⁴⁷ In response, the State Department released a statement listing actions to be taken in support of the Presidential Policy Directive, including “[e]levating the status of women and girls.”⁴⁸ Under Secretary Clinton, the first Quadrennial Diplomacy and Development Review: Leading Through Civilian Power was released in December—reinforcing the President’s goal of building a new global architecture of cooperation and multilateralism.⁴⁹

In December 2011, the U.S. National Action Plan on Women, Peace, and Security (NAP) was developed in response to the call for increased monitoring and reporting in the United States-sponsored SCRs 1820 and 1888.⁵⁰ The NAP was released with an Executive Order, which included two strong policy statements reiterative of the thematic resolutions on WPS: inclusion of women in all aspects of conflict prevention and resolution as well as recognizing that “sexual violence, when used or commissioned as a tactic of war or as a part of a widespread or systematic attack against civilians, can exacerbate and prolong armed conflict and impede the restoration of peace and security.”⁵¹ Early in 2012, the U.S. Department of State Policy Guidance on Promoting Gender Equality identified “peace and security as one of three priority areas in which advancing the status of women and girls and promoting gender equality should be integrated across our diplomacy.”⁵² In August of 2012, in keeping

46. NATIONAL SECURITY STRATEGY, *supra* note 2, at 38.

47. *Presidential Policy Directive on Global Development*, U.S. DEP’T ST., <http://www.state.gov/ppd/> (last visited Apr. 10, 2014).

48. *The Department of State’s Role in Supporting the Presidential Policy Directive on Global Development*, U.S. DEP’T ST. (Sept. 28, 2010), <http://www.state.gov/r/pa/prs/ps/2010/09/148303.htm>.

49. U.S. DEP’T OF STATE & U.S. AGENCY FOR INT’L DEV., LEADING THROUGH CIVILIAN POWER: THE FIRST QUADRENNIAL DIPLOMACY AND DEVELOPMENT REVIEW 19-20 (2010), *available at* <http://www.state.gov/documents/organization/153108.pdf>.

50. THE WHITE HOUSE, UNITED STATES NATIONAL ACTION PLAN ON WOMEN, PEACE, AND SECURITY 11, 23 (2011), *available at* http://www.whitehouse.gov/sites/default/files/email-files/US_National_Action_Plan_on_Women_Peace_and_Security.pdf.

51. Exec. Order No. 13,595, 3 C.F.R. 321 (2011).

52. U.S. DEP’T OF STATE, IMPLEMENTATION PLAN OF THE NATIONAL ACTION PLAN ON WOMEN, PEACE, AND SECURITY 1 (2012) [hereinafter IMPLEMENTATION

with the Executive Order, the Department of State issued its Implementation Plan of the NAP on Women, Peace, and Security: “In implementing the NAP, the Department demonstrates its unfaltering commitment for furthering the promotion of gender equality in service of America’s foreign policy and national security.”⁵³

By Executive Order in August 2012, President Obama confirmed gender equality and women’s empowerment as “a core focus of our foreign policy” and ordered a multi-year strategy, recognizing that

gender-based violence undermines not only the safety, dignity, and human rights of the millions of individuals who experience it, but also the public health, economic stability, and security of nations, it is the policy and practice of the executive branch of the United States Government to have a multi-year strategy that will more effectively prevent and respond to gender-based violence globally.⁵⁴

Catherine M. Russell, now U.S. Ambassador at Large for Global Women’s Issues, in testimony before the Senate Committee on Foreign Relations, commented on her experience in the administration-wide effort to develop the U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally (Strategy) in response to President Obama’s Executive Order: “America’s leadership in advancing the rights of women is vital not just to women themselves, but [also] to our national security and economic stability. None of the world’s most pressing economic, social, and political problems can be solved without the full participation of women.”⁵⁵

The legislation gave the U.S. Department of State and the U.S. Agency for International Development (USAID) six months in which to prepare

a multi-year strategy to prevent and respond to violence against women and girls in countries where it is common. The strategy should include achievable and sustainable goals, benchmarks for measuring progress, and

PLAN], available at <http://www.state.gov/documents/organization/196726.pdf>; see also U.S. DEP’T OF STATE, POLICY GUIDANCE: PROMOTING GENDER EQUALITY TO ACHIEVE OUR NATIONAL SECURITY AND FOREIGN POLICY OBJECTIVES (2012), available at <http://www.state.gov/documents/organization/189379.pdf>.

53. IMPLEMENTATION PLAN, *supra* note 52, at 1.

54. Exec. Order No. 13,623, 3 C.F.R. 296 (2012).

55. Catherine M. Russell, Nominee, Ambassador at Large for Global Women’s Issues, Testimony Before the Senate Committee on Foreign Relations 2 (July 17, 2013), available at http://www.foreign.senate.gov/imo/media/doc/Russell_Testimony.pdf.

expected results. The formulation of the strategy should include regular engagement with men and boys as community leaders and advocates in ending such violence.⁵⁶

The extent to which women's human rights are linked to human security is clear in the Strategy, which opens with the following statement: "Under the leadership of President Obama and Secretary Clinton, the United States has put gender equality and the advancement of women and girls at the forefront of the three pillars of U.S. foreign policy—diplomacy, development, and defense."⁵⁷

Emphasis in the Strategy on complementarity and multilateralism reinforces the notion that there is a positive context in which to bring ratification of CEDAW to the forefront. "Complementing U.S. foreign policy pillars of development and defense, diplomacy around gender-based violence is necessary in order to highlight the issue as essential to the United States' overall foreign policy priorities. This includes bilateral and regional diplomacy, multilateral diplomacy, and public diplomacy efforts, as well as through public-private partnerships."⁵⁸

III. COMPLEMENTS OF CEDAW

CEDAW is reaffirmed and specifically linked to women's human security in SCR 1888, introduced to the Security Council on the last day of September when the United States held the presidency in 2009. Secretary Clinton introduced SCR 1888 for unanimous adoption, adding more accountability measures and stipulating that peacekeeping missions have a specific mandate to protect women and children from rampant sexual violence during armed conflict, requesting that the Secretary-General "appoint a special representative to coordinate a range of mechanisms to fight the crime."⁵⁹ President Obama made a campaign promise to adopt

56. U.S. DEP'T OF STATE & U.S. AGENCY FOR INT'L DEV., UNITED STATES STRATEGY TO PREVENT AND RESPOND TO GENDER-BASED VIOLENCE GLOBALLY (2012), available at <http://www.state.gov/documents/organization/196468.pdf>.

57. *Id.* at 5.

58. *Id.* at 27.

59. Press Release, Sec. Council, Security Council Adopts Text Mandating Peacekeeping Missions to Protect Women, Girls from Sexual Violence in Armed Conflict, U.N. Press Release SC/9753 (Sept. 30, 2009), available at <http://www.un.org/News/Press/docs/2009/sc9753.doc.htm>. The full text of SCR 1888 is in this UN press release. Building on the American initiative, Viet Nam held the Council presidency and, while presiding over an open debate on WPS introduced Resolution 1889, calling upon the Secretary-General to: (a) submit to the Council a

CEDAW—implicit within that promise is seeking Senate approval of CEDAW.⁶⁰ Secretary Clinton reinforced that promise with reference in the text of SCR 1888 to two major human rights treaties and their optional protocols *not* ratified by the United States:

The Security Council . . . Reaffirming the obligations of States Parties to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol thereto, the Convention on the Rights of the Child and the Optional Protocols thereto, and urging states that have not yet done so to consider ratifying or acceding to them.⁶¹

Immediately, President Obama released a strong statement in general support of SCR 1888:

Today, the United States joins with the international community in sending a simple and unequivocal message: violence against women and children will not be tolerated and must be stopped. The United States places a high priority on this issue of fundamental human rights and global security. I am pleased that the Security Council, chaired by Secretary of State Hillary Clinton, unanimously approved a US-sponsored resolution that will increase the protection of women and children in conflict. In particular, the resolution focuses on one of the most abhorrent features of modern war: the use of rape as a weapon, and other forms of sexual violence against women and children.⁶²

Increasingly, demands for accountability on WPS were heard from civil society, emphasizing the need to fulfill legal obligations utilizing well-established mechanisms such as periodic compliance reports required of States parties to CEDAW, with the civil society shadow-reporting process cited as a powerful instrument to augment accountability.⁶³ The Global Network of Women Peacebuilders noted

set of indicators for use at the global level to track implementation of 1325, and (b) report to the Council on women's role in post-conflict peacebuilding, including impediments to women's leadership. *Cross-Cutting Report No. 2: Women, Peace and Security*, SECURITY COUNCIL REP. (Oct. 1, 2010), <http://www.securitycouncilreport.org/cross-cutting-report/lookup-c-glKWLemTIsG-b-6239031.php>.

60. Yalidy Matos, *No Woman Left Behind: CEDAW and the Stupak-Pitts Amendment*, HUFFINGTON POST (Dec. 15, 2009, 9:33 AM), http://www.huffingtonpost.com/yalidy-matos/no-woman-left-behind-ceda_b_392411.html.

61. S.C. Res. 1888, pmbL., U.N. Doc. S/RES/1888 (Sept. 30, 2009).

62. Press Release, Office of the Press Sec'y, Statement by the President Regarding the Protection of Women and Children in Conflict (Sept. 30, 2009), *available at* http://www.whitehouse.gov/the_press_office/Statement-by-the-President-on-UN-Security-Council-Resolution-1888.

63. See UNITED NATIONS, WOMEN COUNT FOR PEACE: THE 2010 OPEN DAYS ON WOMEN, PEACE AND SECURITY 81 (2010), *available at*

that “[s]everal regional and international meetings including the High Level Seminar ‘1325 in 2020: Looking Forward . . . Looking Back,’ organized by the African Center for the Constructive Resolution of Disputes, and the ‘Stockholm International Conference 10 years with 1325—What now?’ called for the use of CEDAW to improve 1325 implementation.”⁶⁴

In 2011, Secretary Clinton again signaled her intention to seek ratification of CEDAW, again linking the Treaty to WPS resolutions of the Security Council, when she spoke at a high-level event at the U.N. in New York and signed the Joint Declaration: On Advancing Women’s Political Participation⁶⁵

We reaffirm our commitment to the equal rights and inherent human dignity of women enshrined in the United Nations Charter, Universal Declaration of Human Rights, and other relevant international human rights instruments. *We call upon all States to ratify and fulfill their obligations under the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and to implement fully Security Council Resolution 1325 (2000) on Women and Peace and Security and other relevant UN resolutions.*⁶⁶

At the confirmation hearing (January 24, 2013) for his nomination as Secretary of State in the second Obama administration, Senator John Kerry was unequivocal in confirming his support for ratification of CEDAW.⁶⁷ As is evident from his public remarks, Secretary Kerry remains committed to his predecessor’s “fundamental shift” to make women central to American foreign policy: “No country can get ahead if it leaves half

http://www.unifem.org/attachments/products/WomenCount4Peace_OpenDays_Report_en.pdf.

64. ENSURING ACCOUNTABILITY, *supra* note 42.

65. U.S. Secretary of State Hillary Rodham Clinton was one of the high level participants who signed this Declaration on September 19, 2011. Other high level participants included Catherine Ashton, High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission and Michelle Bachelet, Executive Director of UN Women (and the former president of Chile). Joshua Hersh, *Hillary Clinton Promotes Women’s Rights Treaty That U.S. Has Not Yet Joined*, WORLD POST (Sept. 20, 2011, 7:55 PM), http://www.huffingtonpost.com/2011/09/20/hillary-clinton-womens-rights-treaty_n_972555.html?view=print&comm_ref=false.

66. *Joint Declaration: On Advancing Women’s Political Participation*, U.S. DEP’T ST. (Sept. 19, 2011), <http://www.state.gov/t/pa/prs/ps/2011/09/172735.htm> (emphasis added).

67. *Sen. John Kerry Confirmation Hearing*, C-SPAN (Jan. 24, 2013), <http://www.c-spanvideo.org/clip/4352156>. This video includes Senator John Kerry’s reply “the answer is yes” to Senator Barbara Boxer when she asked if he would “continue to support the ratification” of CEDAW. *Id.*

of its people behind. This is why the United States believes gender equality is critical to our shared goals of prosperity, stability, and peace, and why investing in women and girls worldwide is critical to advancing U.S. foreign policy.”⁶⁸

Having reviewed indications of the extent to which the Obama administrations are on record as committed to ratification of CEDAW, dating from Obama’s first presidential campaign (2008) to John Kerry’s confirming statements in his first year as Secretary of State (2013), this Article explores further the benefits of synergy in American domestic and foreign policies that could be created by ratification of CEDAW and its Optional Protocol. With the adoption in 2013 of SCR 2122 by the Security Council and of GR 30 by the CEDAW Committee, this synergy is illustrated in the convergence and complementarity of these new CEDAW and WPS instruments. With the adoption of SCR 2122, the Security Council finally chose language responsive to mounting concerns among civil society advocates that the resolutions on WPS reduced women to victim stereotypes—as passive recipients of both persecution and assistance. As noted by Ambassador Samantha Power in supporting adoption of SCR 2122 by the Security Council:

Whether discussing the right of a girl to sit in a classroom or the right of a woman to lead her country in the quest for security and peace, the principle is the same and the dividend for peace, for dignity, and for prosperity of women’s inclusion, that dividend is obvious.⁶⁹

Phumzile Mlambo-Ngcuka, U.N. Women Executive Director, promptly issued her statement of support for the change in tone by the Security Council on women’s equality and human security:

Resolution 2122 demonstrates the Security Council’s intention to put women’s leadership at the centre of all efforts to resolve conflict and promote peace. It answers the chorus of voices from the global women’s movement to focus on women’s roles as peace leaders. And it recognizes, loud and clear, that gender equality and the empowerment of women are critical to international peace and security.⁷⁰

68. John Kerry, Op-Ed., *Why Women Are Central to U.S. Foreign Policy*, U.S. DEP’T ST. (Mar. 8, 2013), <http://www.state.gov/secretary/remarks/2013/03/207940.htm>.

69. Ambassador Samantha Power, U.S. Permanent Representative to the United Nations, Remarks at the Security Council Open Debate on Women, Peace, and Security (Oct. 18, 2013), *available at* <http://usun.state.gov/briefing/statements/215663.htm>.

70. Phumzile Mlambo-Ngcuka, *Statement of Phumzile Mlambo-Ngcuka on Adoption of Security Council Resolution 2122*, UN WOMEN (Oct. 18, 2013),

Ratification of CEDAW by the United States would not only significantly strengthen its power as a tool for American women, but also for women worldwide to help themselves. Dr. Sima Samar, chair of the Afghan Independent Human Rights Commission and former deputy prime minister of Afghanistan, has repeatedly urged the United States to ratify CEDAW, noting that if the United States “is in full compliance with the universally agreed upon principles and norms it would enhance global efforts for upholding of human rights and women’s rights values throughout the world.”⁷¹

The voices of Samar and other international women’s rights defenders reinforce calls for ratification of CEDAW in U.S. civil society:

Advancing women’s human rights is fundamental to America’s national security interests and a cornerstone of our foreign policy. Countries are more peaceful and prosperous when women have full and equal rights and opportunity. Ratifying CEDAW would give America greater clout to help women worldwide win basic rights—to go to school, to own and inherit property, to take part in public life and to stop domestic violence and trafficking.⁷²

In an invitational meeting on November 11, 2013, hosted by His Excellency Paul Seger, the Swiss ambassador to the U.N., the focus was on WPS—in particular the recently adopted SCR 2122 and CEDAW GR 30 on women in conflict prevention, conflict, and post-conflict situations.⁷³ At that meeting, Ms. Pramila Patten (Mauritius), CEDAW expert and chair of the working group that produced the text in GR 30, emphasized the complementarity of CEDAW and its GR 30 to the WPS resolutions of the Security Council.⁷⁴ In her presentation, Ms. Patten advised, “adoption of this

<http://www.unwomen.org/lo/news/stories/2013/10/ed-statement-on-sc-resolution-on-women-and-peacebuilding>.

71. Sandy Thomas & Josh Ferrier, *Conference Highlights Worldwide Efforts to End Discrimination Against Women*, UNFINISHED BUS. (Mar. 10, 2012), <http://www.unfinishedbusiness.org/20120310-conference-highlights-worldwide-efforts-to-end-discrimination-against-women/> (quoting Dr. Sima Samar, Chairperson, Afghanistan Independent Human Rights Commission).

72. CITIZENS FOR GLOBAL SOLUTIONS, *THE CEDAW TREATY: ENDING DISCRIMINATION AGAINST WOMEN* (2011), *available at* globalsolutions.org/files/public/documents/CEDAW-Fact-Sheet-2011.pdf.

73. See generally S.C. Res. 2122, *supra* note 7; United Nations, Comm. on the Elimination of Discrimination against Women, General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations, U.N. Doc. CEDAW/C/CG/30 (Oct. 18, 2013) [hereinafter General Recommendation No. 30].

74. The author wishes to thank the Global Network of Women Peacebuilders (GNWP) for the invitation to the meeting on CEDAW GR 30, with

GR coincides with a recognition of the Security Council that a ‘significant implementation shift’ is required without which women would remain under-represented in conflict prevention and resolution, protection and peacebuilding. I think that CEDAW can provide this shift in implementation.”⁷⁵ Ms. Patten went on to explain that

GR 30 gives normative content to States parties’ obligations under Articles 1 to 16 of the Convention, to-date ratified by 187 States parties. It outlines how the Convention intersects with other international human rights, humanitarian, criminal, and refugee law, and situates important political frameworks, particularly the U.N. Security Council agenda on women, peace and security, in the Convention’s legal framework of non-discrimination and equality.⁷⁶

In her presentation to States Members of the Security Council at the Swiss Mission, Ms. Patten went further in positing the unique authority of CEDAW, noting that the Council’s WPS resolutions

do not include any clear mechanisms for monitoring implementation so as to ensure accountability as well as full implementation of the principles enshrined within. On the other hand, CEDAW, which brings together in a single legally binding instrument, provisions requiring the elimination of discrimination on the basis of sex in the enjoyment of civil, political, economic, social and cultural rights and specific rights of particular concern to women and girls, is one of the critical tools for moving the gender equality agenda forward in conflict and post conflict situations. CEDAW is the authoritative legal instrument on women’s human rights and a binding source of international law for those 187 States that have ratified it. The Preamble of the Convention together with its 16 substantive provisions establish the requisite normative framework for the full protection of women in armed conflict and advancement of their fundamental human rights in post-conflict contexts. In addition to the Convention’s substantive rights guarantees, the Convention 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. Under Article 18(1), States Parties undertake to submit a report within one year of ratification, thereafter at least every four years “and further whenever the Committee so requests[.]” Using the reporting procedure to include information on the implementation of U.N. Security

CEDAW members Pramila Patten (Mauritius), Patricia Schulz (Switzerland), and Nahla Haidar (Lebanon), and States Members of the Security Council chaired by His Excellency Paul Seger, at the offices of the Permanent Mission of Switzerland to the United Nations in New York on November 11, 2013. A number of points made in this Article are drawn from that discussion; the author takes responsibility for any errors in the interpretation of statements made at this meeting.

75. Patten, *supra* note 32.

76. *Id.*

Council commitments can consolidate the Convention and the U.N. Security Council agenda and broaden, strengthen and operationalize gender equality. The Committee has used Article 18(1)(b) . . . “and further whenever the Committee so requests” to request exceptional reports. The Committee has requested exceptional reports mainly in situations of conflict or post conflict.⁷⁷

For ease of reference, the table in Appendix I is an overview of a nexus between the CEDAW Treaty (1979) and WPS resolutions of the Security Council, particularly convergence of CR 30 of CEDAW with WPS Resolutions 2106 and 2122 (all adopted in 2013).

CONCLUSION

Formal commitments to reducing and preventing SGBV in conflict and post-conflict zones would be reinforced by U.S. ratification of CEDAW and entirely consistent with U.S. foreign policy on global leadership for women’s equality. In addressing the Security Council when SCR 2122 was adopted, Ambassador Power clearly stated the depth of the commitment of the Obama Administration to gender equality—at home and abroad:

President Obama is personally determined to change the DNA of the U.S. government so that this inexorable link between women’s inclusion and lasting peace is a premise or an axiom brought to every policy discussion. President Obama and Secretary of State Kerry have ordered its full integration into our diplomacy; the Defense Department is spreading the message of gender awareness to partners across the globe; our Justice Department is working with police, prosecutors, and judges to increase accountability for sexual violence; and the Centers for Disease Control have launched a system for monitoring abuse against women and girls.⁷⁸

Integration of human security (WPS) and human rights (CEDAW) through implementation of the suite of United States-supported SCRs within the broader process of ratifying CEDAW and its Optional Protocol is the most logical framework for U.S. policy coherence on gender equality and in countering violence against women and girls in all forms and contexts—nationally and internationally.

77. *Id.* (emphasis omitted).

78. Power, *supra* note 69.

APPENDIX I

Nexus of Women's Human Rights and Human Security in Conflict

This Table summarizes the alignment between certain articles of the CEDAW Treaty, which has been ratified by 187 Member States of the United Nations (but not by the United States), its General Recommendation 30 adopted by the CEDAW Committee in 2013, and Security Council Resolutions 2106 and 2122 on Women, Peace and Security, adopted by the UN Security Council in 2013. As described by Christine Chinkin and Marsha A. Freeman:

General recommendations provide guidance to States parties and others in understanding the obligations of the Convention and facilitate consistency in its application. In preparing general recommendations the Committee draws on its extensive experience in the consideration of the States parties' reports, as well as seeking input *inter alia* from the secretariat and from academic and NGO experts.*

As stated in paragraph 26 of CEDAW GR30,

implementation [of the SCRs] must be premised on a model of substantive equality and cover all rights enshrined in the Convention . . . for a concerted and integrated approach that places the implementation of the Security Council agenda on women, peace and security into the broader framework of the implementation of the Convention and its Optional Protocol.**

*Christine Chinkin & Marsha A. Freeman, *Introduction* to CEDAW COMMENTARY, *supra* note 3, at 21.

**General Recommendation No. 30, *supra* note 73, ¶ 26.

CEDAW	CEDAW GR 30	SCR 2106	SCR 2122
USA signed in 1980 but has not ratified as of April 2014	Adopted by CEDAW Committee on Oct. 18, 2013	Security Council adopted unanimously on June 24, 2013	Security Council adopted unanimously on Oct. 18, 2013
“[D]iscrimination against women” art. 1	“[A]pply the Convention . . . [in the] exercise [of] territorial or extraterritorial jurisdiction” ¶ 9	“ <i>Reaffirming</i> its respect for the . . . territorial integrity . . . of all States” pmb.	
“States Parties . . . agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” art. 2	“In all crisis situations . . . women’s rights are guaranteed by an international law regime” ¶ 19	“States bear the primary responsibility to respect and ensure the human rights of all persons within their territory” pmb.	“States bear the primary responsibility to respect and ensure the human rights of all persons within their territory” pmb.
“States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women” art. 6	“States parties’ obligations to prevent, investigate and punish trafficking and sexual and gender-based violence [(SGBV)] are reinforced by international criminal law, including jurisprudence of the . . . International Criminal Court [(ICC)]” ¶ 23	“[T]he fight against impunity . . . [is] strengthened through the . . . ICC” ¶ 3	“[T]he fight against impunity . . . [is] strengthened through the . . . [ICC], ad hoc and mixed tribunals, as well as specialized chambers in national tribunals” ¶ 12
“States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care” art. 12, ¶ 1	“[V]arious thematic resolutions . . . [such as] 2106 . . . provide[] . . . guidance on the impact of HIV and AIDS . . . [which is] crucial . . . for advancing advocacy regarding women,	“[The] burden of HIV and AIDS on women and girls [is] a persistent obstacle and challenge to gender equality” ¶ 20	

CEDAW	CEDAW GR 30	SCR 2106	SCR 2122
	peace and security [(WPS)]” ¶ 25		
“The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention” art. 17, ¶ 9	“Enhance collaboration with civil society and non-governmental organizations working on the implementation of the Security Council agenda on women, peace and security” ¶ 28(d)	“ <i>Underlines</i> the important roles that civil society organizations . . . and [NGOs] can play in enhancing community-level protection” for WPS ¶ 21	“ <i>Taking note</i> of the critical contributions of civil society, including women’s organizations to conflict prevention, resolution and peacebuilding” pmb1.
“States Parties shall accord to women equality with men before the law” art. 15, ¶ 1	“States parties to focus on the prevention of conflict and all forms of violence” ¶ 29	“[N]eed for more timely, objective, accurate and reliable information as a basis for prevention and response . . . relevant to the implementation of resolution 1888” ¶ 6	“[E]mphasizing the importance of the rule of law as one of the key elements of conflict prevention, peacekeeping, conflict resolution and peacebuilding” pmb1.
“States Parties condemn discrimination against women in all its forms” art. 2	“[P]roliferation of conventional arms . . . can have a[n] . . . effect on women as victims of conflict-related [SGBV]” ¶ 32		“[N]oting the provisions in Article 7(4) of the [Arms Trade] Treaty [(ATT)] that exporting States Parties shall take into account the risk of [SGBV due to] conventional arms” pmb1. “ <i>Looking forward</i> to the important contribution that implementation of the [ATT] can make to reducing violence perpetuated against women . . . in armed conflict” pmb1.
“States Parties shall take all appropriate measures . . . to	“It is indisputable that, while all civilians are	“ <i>Noting</i> with concern that sexual violence in armed	“ <i>Expressing deep concern</i> at the full range of threats and

CEDAW	CEDAW GR 30	SCR 2106	SCR 2122
achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes” art. 5	adversely affected by armed conflict, women and girls are primarily and increasingly targeted by the use of sexual violence” ¶ 35	conflict and post-conflict situations disproportionately affects women and girls” pmbl.	human rights violations and abuses experienced by women in armed conflict and post-conflict situations” pmbl.
“States Parties condemn discrimination against women in all its forms” art. 2	“Prohibit all forms of gender-based violence by State and non-State actors including through legislation, policies and protocols” ¶ 38(a)	“[J]ustice sector reform initiatives, including through legislative and policy reforms that address sexual violence” ¶ 16(c)	
“To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women” art. 2(b)	“Prevent, investigate and punish all forms of gender-based violence” ¶ 38(b)	“[A]pply targeted sanctions against those who perpetrate and direct sexual violence in conflict” ¶ 13	
“States Parties shall accord to women equality with men before the law” art. 15, ¶ 1	“Ensure women’s and girls’ access to justice” ¶ 38(c)	“Draws attention to the importance of a comprehensive approach to transitional justice” ¶ 4	
“States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women,	“[H]ave access to comprehensive medical treatment, mental health care and psychosocial support” ¶ 38(e)	“[P]rovide non-discriminatory and comprehensive health services” ¶ 19	“Recognizing the importance of . . . [a] full range of medical . . . services to women . . . and noting the need for access to the full range of sexual and reproductive health services, including regarding pregnancies resulting

CEDAW	CEDAW GR 30	SCR 2106	SCR 2122
access to health care services, including those related to family planning” art. 12, ¶ 1			from rape, without discrimination” pmbL.
“States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights” art. 13	“The Committee reaffirms that the inclusion of a critical mass of women in international [processes] . . . can make a difference” ¶ 42	“Underlines the importan[ce of] civil society [and NGO’s] . . . in enhancing community-level protection” for WPS ¶ 21	“Recognizing that the economic empowerment of women greatly contributes to the stabilization of societies emerging from armed conflict” pmbL.
“To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government” art. 7(b)	“The immediate aftermath of conflict can provide a strategic opportunity for States parties to adopt legislative and policy measures to eliminate discrimination against women” ¶ 43	“Affirming that women’s political, social and economic empowerment, gender equality . . . are central to long-term efforts to prevent sexual violence in armed conflict” pmbL.	
“States Parties . . . agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” art. 2	“Develop and implement disarmament, demobilization and reintegration programmes in coordination and within the framework of the security sector reform” ¶ 69(a)	“[D]isarmament, demobilization and reintegration processes, including, inter alia, by establishing protection mechanisms for women and children in cantonment sites” ¶ 16(a)	
“States Parties shall take in all fields . . . all appropriate measures, including	“Ensure a comprehensive approach to transitional justice		“Stresses the need for continued efforts to address obstacles in women’s access to

CEDAW	CEDAW GR 30	SCR 2106	SCR 2122
legislation, to ensure [sic] the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men” art. 3	mechanisms that incorporates both judicial and non-judicial mechanisms” ¶ 81(a)		justice in conflict and post-conflict settings” ¶ 10
“States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted” art. 18, ¶ 1	“State parties should report on the legal framework, policies and programmes that they have implemented to ensure the human rights of women” ¶ 82	“Requests that the Secretary-General continue to submit annual reports to the Council on the implementation of women and peace and security resolutions” ¶ 22	“Requests that the Secretary-General continue to submit annual reports to the Council . . . on the implementation of . . . women, peace and security” resolutions ¶ 18
“States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention” art. 24	“States parties are encouraged to ratify all international instruments relevant to the protection of women’s rights in conflict prevention, conflict and post-conflict” ¶ 86		
“States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care” art. 12, ¶ 1	“[H]ave access to comprehensive medical treatment, mental health care and psychosocial support” ¶ 38(e)	“[P]rovide non-discriminatory and comprehensive health services” ¶ 19	

