



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org – wgdiscriminationwomen@ohchr.org

Inputs from the Working Group on Discrimination against Women in Law and in Practice to the Global Study on the implementation of UN Security Council Resolution 1325

30 March 2015

Dear Ms. Coomaraswamy,

It is a privilege for the UN Working Group on Discrimination against Women in Law and in Practice to contribute to the Global Study on the implementation of the UN Security Council Resolution (UNSCR) 1325 for which you are the lead author.

We sincerely welcome the opportunity to further advance the fulfillment of our task as given by the UN Human Rights Council, including engaging with UN entities on the elimination of laws that discriminate against women or are discriminatory to women in terms of implementation or impact. Peacebuilding and conflict transformation processes, including in relation to implementation of the UNSCR 1325, present unique opportunities for the elimination of discrimination against women in law and practice.

At this moment of review of both the Beijing Platform for Action and the UNSCR 1325, we recall the analysis made by States 20 years ago in Beijing that “peace is inextricably linked to equality between men and women and development” (paragraph 131). We are encouraged that this now resonates in the form of two distinct goals on gender equality and on peaceful and inclusive societies as necessary milestones for achieving sustainable development beyond 2015. In this light, we also underscore the call made by the CEDAW Committee for the full integration of the principle of substantive equality in implementing the UNSCR 1325 and consider its broad definition of conflict as expressed in its General Recommendation n°30 as an important complement to the Security Council resolutions on “Women, Peace and Security”.

Eliminating laws that discriminate against women is crucial to sustainable peace and security. Through the Vienna Declaration and Program of Action of the 1993 World Conference on Human Rights, States have clearly identified discrimination against women as among the “gross and systematic violations and situations that constitute serious obstacles to the full enjoyment of all human rights” (paragraph 30).

Women’s inequality before the law intersects with all other prohibited grounds of discrimination and contributes to the perpetuation of all forms of historical inequality that constitute the root causes of violent conflicts. Without addressing these

root causes in all its dimensions, it would not be possible to overcome ‘the vicious cycles of conflict’, as captured in the World Development Report on Conflict, Security and Development (2011), in which many conflict-affected countries continue to face recurring violence at high levels and in multiple forms even after having successfully negotiated political and peace agreements.

The prevalence of sexual violence in war, which is a global concern receiving considerable attention in the UNSCR 1325 and its related resolutions, stands on deeply entrenched socially constructed perceptions about the role of women in society, gender relations and the nature of femininity. The shifts in gender roles during times of violent conflicts, in which women take over roles and responsibilities within the family and community that have traditionally been held by men, are promptly challenged and undermined once the conflict is officially over. Such realities persist because of unchallenged gender stereotypes and poor implementation of legal guarantees of equality between men and women, including in family and cultural life.

The increase in female heads of households in conflict-affected communities is often unmet by gender-responsive reconstruction and rehabilitation programs and, thereby, paves the way towards the feminization of poverty and the emergence of new grounds for unrest and insecurity. Left unchanged, laws that discriminate against women in terms of equal rights to inheritance, property, land, and other productive assets obstruct women’s capacity to overcome new challenges, arising from volatile and complex post-conflict situations, in their social and economic life.

The long continuum of gender-based violence against women and girls – in the public and private spheres of life – extends from times of violent conflict to the period of post-conflict reconstruction and rehabilitation, including within refugee, displaced and ex-combatant communities. Overcoming barriers in the law and in the criminal justice system, including under parallel legal systems, which prevent women of diverse backgrounds to access justice should be a matter of priority to ensure the inclusiveness of the peace dividend. To further effectively guarantee non-recurrence for gender-based gross violations of human rights, in line with the Updated Principles to Combat Impunity, mechanisms of transitional justice should effectively lead to the repeal of laws that discriminate against women in all aspects of life.

Evidence has shown that post-conflict political settlements, as well as political transitions may result in a heightened risk of backsliding and even regression on women’s rights. In its first thematic report (A/HRC/23/50) in 2013, the Working Group stated that the conflict and post-conflict experience leads to an increased awareness of the different conditions of States, including weak, fragile, failed and/or hybrid States, and an increasing focus on State-building processes. Such processes reveal the complex and critical roles and relations of State and non-State actors in the renegotiation of the balance of power, the allocation of resources and entitlements, and the formation of the identity of whole nations. Contestations over national



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

identity are heightened during times of political change and present new vulnerabilities for those women whose values, roles and behaviors do not fit the power elite's idealized imagery of womanhood (par. 33). In these contexts, women are at high risks of violence and insecurity facing sexual and verbal harassment and degrading and humiliating treatments. Political groupings that do not support the principle of non-discrimination and equality between men and women may gain power in a newly renegotiated political order, imposing regressive laws on women. When women's voices and the issue of women's human rights are absent from the political negotiations and from public discourse, even in democratic environments, pre-existing guarantees of gender equality in the law, including in national constitutions, can be challenged and new discriminatory provisions can be introduced in the legal framework at national and/or subnational levels.

Ensuring the full and meaningful participation of diverse women in building sustainable peace and security requires concrete steps in eliminating laws or provisions in the law that are discriminatory against women, including in relation to personal laws; laws on property, labor and nationality; the criminal code and procedural laws affecting gender-responsiveness in the administration of justice. National human rights institutions need to heighten their capacity in protecting women's human rights, ensuring effective remedy for violations of their rights and monitoring processes of law making.

Please find below additional specific recommendations:

1. Incorporate dealing with deep-seated inequality, including gender inequality on its own and as it intersects with other grounds of discrimination, as among the root causes of conflicts and as an integral part of the peace and security agenda.
2. Establish a clear framework for action by States based on the interconnections among the UNSCR 1325, international human rights system, including the CEDAW Convention and General Recommendations, and standards to combat impunity for gross violations of human rights, the post-2015 Sustainable Development Goals, and the new global commitment to accelerate implementation of the Beijing Platform for Action, including the financing implications.
3. Strengthen the role of human rights communities and institutions at the national, regional, and local levels in building sustainable peace and security, including women human rights defenders.



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

4. Create ways and means to support women's leadership in grounding the peace and security agenda in all sectors and at all levels of government, including through gender-responsive analyses of conflict and violence and information.

Thank you for taking the time to consider this letter alongside the many other inputs you are receiving and for establishing such an inclusive process in preparing for the Global Study on the implementation of Resolution 1325 (2000).

Sincerely yours,

A handwritten signature in blue ink that reads "E. Aouij".

Emna Aouij

Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice