

# Strengthening Prevention of Conflict-related Sexual Violence and Trafficking in Human Beings: Saving the Potential of the Women, Peace and Security Agenda with the Human Rights-Based Approach

Milena Adamczewska\*

*The Office of the Commissioner for Human Rights of the Republic of Poland*

## Abstract

*The Women, Peace and Security (WPS) Resolutions of the United Nations Security Council are an essential part of the international framework to prevent conflict-related sexual violence (CRSV) and trafficking in human beings (THB). However, the WPS Resolutions' potential is not fully realized, as they are not sufficiently implemented by States. This article argues that the struggles with the implementation of the WPS Resolutions are substantially caused by the unresolved uncertainties about their legal status, their scope of applicability and the mechanisms of their implementation. It is discussed that a human rights-based approach to the WPS Resolutions can resolve these ambiguities, thus save the potential of the WPS Resolutions to strengthen prevention of CRSV and THB. Building on the concept of positive correlation between peace and realization of women's rights, the article defends the view that States' obligations included in the WPS Resolutions are binding and applicable in peacetime, as they overlap with the obligations established by international human rights treaties. These findings give ground to the further argument that implementation of the WPS Resolutions can and should be enhanced through the mechanisms of the UN Human Rights System as well as through the increased involvement of civil society organizations.*

## I. Introduction

It seems impossible today to discuss prevention of conflict-related sexual violence (CRSV) and trafficking in human beings (THB) without making reference to the Women, Peace, and Security (WPS) Agenda of the United Nations (UN). Since its formal inauguration with UN Security Council's Resolution 1325 (hereafter Resolution 1325) in October 2000, the WPS framework has grown significantly. Together with seven subsequent resolutions on the

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\* DOI 10.7590/245227719X15476235096535 2452-2775 2019 Journal of Trafficking and Human Exploitation

topic (hereafter WPS Resolutions),<sup>1</sup> the landmark Resolution 1325 sets the standard of a gender perspective in international peace and security governance, urges for protection from sexual violence, empowering women through equal representation and tackling gender inequalities. While the content of the WPS Resolutions did not avoid scholarly criticism,<sup>2</sup> one could say that the WPS Agenda has the normative potential to bring positive change and contribute to the prevention of CRSV and THB.<sup>3</sup>

However, reality did not meet the expectations and the UN and its Member States have been widely criticized for failing to implement the WPS Resolutions.<sup>4</sup> Statistics show that the objectives of the WPS Agenda are far from being globally met,<sup>5</sup> and the latest conflicts reveal the continuous occurrence of sexual violence.<sup>6</sup> The questions of how to tackle and prevent these atrocities remain open and so does the question of how to enhance the implementation of the WPS Resolutions and use them as tools to increase the prevention of CRSV and THB.

The aim of this article is to engage in the debate on these questions. The author's preliminary argument, which will be supported by the analysis of section 2, is that the WPS Resolutions can contribute to the prevention of CRSV and THB, but this potential is currently not fully reached because the WPS Resolutions are not sufficiently implemented by the States. Section 3 of the ar-

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<sup>1</sup> UN Security Council Resolution 1325 (S/RES/1325), 31 October 2000; UN Security Council Resolution 1820 (S/RES/1820), 19 June 2008; UN Security Council Resolution 1888 (S/RES/1888), 30 September 2009; UN Security Council Resolution 1889 (S/RES/1889), 5 October 2009; UN Security Council Resolution 1960 (S/RES/1960), 16 December 2010; UN Security Council Resolution 2106 (S/RES/2106), 24 June 2013; UN Security Council Resolution 2122 (S/RES/2122), 18 October 2013; and UN Security Council Resolution 2242 (S/RES/2242), 13 October 2015. For a practical overview of key issues covered by each Resolution see: P. Kirby & L. Shepherd, 'Reintroducing Women, Peace and Security', *International Affairs* 92.2 (2016): 251, Table 1.

<sup>2</sup> See e.g., D. Otto, 'Women, Peace and Security: A Critical Analysis of the Security Council's Vision', in *The Oxford Handbook of Gender and Conflict*, eds. F. Aoláin et al., (United States of America: Oxford University Press, 2018); I. Renzulli, 'Women and Peace: A Human Rights Strategy for the Women, Peace and Security Agenda', *Netherlands Quarterly of Human Rights* 35.4 (2017): 210-229.

<sup>3</sup> However, it must be acknowledged that the WPS Resolutions improves the prevention of CRSV primarily for women and girls, which constitutes a noteworthy limitation of their potential. More and more studies reveal that there is a lack of response to CRSV against men and boys and this issue is marginalized. See, e.g., E. Gorris, 'Invisible Victims? Where Are Male Victims of Conflict-Related Sexual Violence in International Law and Policy?', *European Journal of Women's Studies* 22.4 (2015): 412-27.

<sup>4</sup> See, e.g., J. True, 'Explaining the Global Diffusion of the Women, Peace and Security Agenda', *International Political Science Review* 37.3 (2016): 307-23; J. Irvine, 'Leveraging Change: Women's Organizations and the Implementation of UNSC Resolution 1325 in the Balkans', *International Feminist Journal of Politics* 15.1 (2013): 20-28.

<sup>5</sup> UN Women, 'Facts and Figures: Peace and Security', [www.unwomen.org/what-we-do/peace-and-security/facts-and-figures](http://www.unwomen.org/what-we-do/peace-and-security/facts-and-figures), accessed 20 July 2018.

<sup>6</sup> UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence* (S/2018/250), 23 March 2018.

ticle will argue that these implementation challenges are mainly caused by unresolved ambiguities around the WPS Resolutions. Not only is their legal status unclear, but also which States should implement them and how they should do it.

The analysis of section 4 will turn to the central argument of this contribution, the claim that a human rights-based approach to the WPS Resolutions can resolve the problems highlighted in section 3 and, consequently, realize the WPS Agenda's potential to contribute to the prevention of CRSV and THB. The choice of looking at the WPS Agenda from a human rights perspective is not new.<sup>7</sup> However, there has not been enough discussion on its benefits and why it should be exercised. The goal of the article will be to fill this gap as well as to suggest how States can ensure the human rights-based implementation of the WPS Resolutions.

## 2. WPS Resolutions as Tools of Prevention of Conflict-related Sexual Violence and Trafficking in Human Beings

Building on Resolution 1325, all the eight WPS Resolutions are focused on the overall objective of promoting and protecting women's rights in conflict and post-conflict settings. The issues covered by the WPS Resolutions are connected to the women's participation, representation and empowerment and the prevention of, protection from, and recovery after CRSV.<sup>8</sup> While each of the WPS Resolutions refers to the discussed crimes in at least one provision, five of them are almost entirely focused on the issue of CRSV.<sup>9</sup> Although the WPS Resolutions do not mention THB specifically, they continuously refer to 'all forms of sexual violence in situations of armed conflict'.<sup>10</sup> Therefore, THB committed in conflict-related situations for the purpose of sexual exploitation should be considered as included under the scope of CRSV by the WPS Resolutions, on the basis of the nexus between THB and CRSV, established by the UN Security Council Resolutions 2331 (2016) and 2388 (2017), and repeated by the UN Secretary General in his 2018 report on CRSV.<sup>11</sup>

<sup>7</sup> UN Security Council, *Report of the Secretary-General on Women, Peace and Security* (S/2017/861), 16 October 2017, para. 72; UN Women, *The Global Study on the Implementation of The UN Security Council Resolution 1325* (New York, 2015), 346.

<sup>8</sup> Kirby & Shepherd, 'Reintroducing Women, Peace and Security', 249-54; Otto, 'Women, Peace and Security', 4.

<sup>9</sup> UNSC Res. 1820; UNSC Res. 1888; UNSC Res. 1960; UNSC Res. 2106; and UNSC Res. 2242.

<sup>10</sup> See e.g., UNSC Res. 1325, para. 10.

<sup>11</sup> UNSC, *Report of the SG on CRSV* (2018), para. 2. For the discussion on the nexus see R. Ghafoerkhan, W. Scholte & E. De Volder, 'The Nexus between Conflict-Related Sexual Violence and Trafficking for Sexual Exploitation in Times of Conflict' in this special issue.

The WPS Agenda repeatedly reaffirms that ‘rape and other forms of sexual violence can constitute a war crime, a crime against humanity, or a constitutive act with respect to genocide’,<sup>12</sup> and to do so, refers to international law, including the Geneva Conventions and its Additional Protocol, the Refugee Convention, the Rome Statute of the International Criminal Court and the statutes of the ad hoc international criminal tribunals. In this regard, the WPS Resolutions do not establish new obligations for their addressees – they only recall the norms established in other instruments, stress their importance for the context of WPS, and emphasize that States should follow international obligations applicable to them. This confirmation of existing duties is apparent especially in the field of protection from sexual violence during armed conflicts and prosecution of CRSV crimes. The WPS Resolutions stress that the latter need to be excluded from amnesty provisions, investigations of alleged abuses must be timely and all States should prosecute perpetrators of CRSV<sup>13</sup>, in line with the Security Council’s commitment to consider sexual violence crimes when establishing and renewing state-specific sanction regimes.<sup>14</sup>

However, this is just the foundation that the WPS Resolutions build on. The operational value of the WPS framework lies in the detailed formulation of positive measures, which States should adopt in order to fulfill their international obligation of protecting women and girls from all forms of sexual violence, in case of the eruption of conflict. For instance, Resolution 1820 and Resolution 1960 specify that the appropriate measures from the field of prevention should include, among others:<sup>15</sup>

- upholding disciplinary rules within the military structures,
- training military and security forces on prohibition and prevention of CRSV,
- tackling stereotypes that fuel CRSV,
- protecting women in case of imminent threat of sexual violence,
- enforcing prohibition of CRSV in military codes of conducts.

These measures are mere suggestions and the WPS Resolutions leave States the choice of implementing other positive means in order to achieve the objective of preventing CRSV. However, the instruments stress that the measures should be, at a minimum, ‘specific and time-bound’.<sup>16</sup> With this regard, the WPS

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<sup>12</sup> See e.g., UNSC Res. 1820, para. 4; UNSC Res. 1888, para. 1, THB, included here in ‘other forms of sexual violence’, can constitute the crime against humanity of enslavement or the war crime of sexual slavery, on the basis of Art. 7(2)(c), Art. 8(2)(b)(xxii), and Art. 8(2)(e)(vi) of the Rome Statute of the International Criminal Court.

<sup>13</sup> UNSC Res. 1325, para. 11.

<sup>14</sup> UNSC Res. 1820, para. 5.

<sup>15</sup> UNSC Res. 1820, para. 3; UNSC Res. 1960, para. 5.

<sup>16</sup> Ibid.

Resolutions undoubtedly enrich the other instruments of the international legal framework and offer the practical dimension of specificity.

However, the core focus and unique features of the WPS Agenda are meant to impact the prevention of CRSV before an armed conflict occurs. The fundamental principle behind the whole WPS framework is that sexual violence which occurs during armed conflicts is inseparably connected to pre-existing gender inequalities. Consequently, prevention from the first cannot be achieved without targeting the latter. This focus on gender inequalities, seen not only as a root cause of conflict-related sexual violence but also as a root cause of conflicts as such,<sup>17</sup> marks the international significance of the WPS Agenda. Although it is not a controversial concept today that CRSV can be a manifestation of structural gender-based discrimination,<sup>18</sup> and studies have revealed a positive correlation between gender equality and the stability of peace,<sup>19</sup> the novelty which WPS Resolutions offer lies in translating these revelations into a responsibility to act.

Therefore, States are expected to combat gender inequalities and to empower women and girls during peace, and as such to (indirectly) prevent CRSV and THB. As in the case of conflict-related duties discussed before, these obligations are not new but reflected in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>20</sup> While this synergy between the CEDAW and the WPS Agenda will be discussed in detail in section 4.1, it is important to mention here that each of the WPS Resolutions<sup>21</sup> urges States to ratify the CEDAW and its Additional Protocol, or to comply with them if already a party thereto. Nevertheless, the reaffirmation of existing international obligations of States is again followed by the establishment of an open, yet broad, catalogue of specific measures, which States should implement in order to meet the expected goals. With regard to prevention from CRSV through women's empowerment, the WPS Resolutions urge States, for instance, to guarantee gender equal representation at all decision-making levels in the processes of conflicts' resolution<sup>22</sup>; support women's leadership in bodies related

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<sup>17</sup> See e.g., UNSC Res. 2242, preamble.

<sup>18</sup> UNSC, *Report of the SG on CRSV* (2018); Renzulli, 'Women and Peace', 211-213. However, it should also be acknowledged that some academics state that gender inequalities cannot explain why the crimes of CRSV occur in some situations but not in others, and they should be considered as results of perpetrators' individual choices. See e.g., D. Cohen & R. Nordås, 'Sexual Violence in Armed Conflict: Introducing the SVAC dataset, 1989-2009', *Journal of Peace Research* 51.3 (2014): 418-428, after S. Davies & J. True, 'Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In', *Security Dialogue* 46 (2015): 2.

<sup>19</sup> Institute for Economics and Peace, *Positive Peace Report 2017* (Sydney, October 2018).

<sup>20</sup> UN General Assembly, 'Convention on the Elimination of All Forms of Discrimination Against Women', (UN Treaty Series, vol. 1249), 18 December 1979.

<sup>21</sup> See e.g., UNSC Res. 2242, preamble.

<sup>22</sup> UNSC Res. 1325, para. 1.

to maintenance of peace and security;<sup>23</sup> or to ensure that development, coordination, and implementation of policies and programs are inclusive.<sup>24</sup> The application of these directives would not only guarantee compliance with the general duties under the CEDAW, to ‘condemn discrimination of women in all its forms (...) by all appropriate means’.<sup>25</sup> It would also bring the particular value of lowering the risk of CRSV crimes, in case of the eruption of conflict.

In conclusion, both the specific, time-bound, positive measures which States are expected to implement to prevent sexual violence in conflict situations and the responsibilities related to combating structural gender inequalities which the instruments include, are not new international obligations. Nevertheless, they certainly enrich, specify and operationalize the international legal framework on the prevention of CRSV and THB. This would imply that when the WPS Resolutions are fully implemented by all States, significant effort will be undertaken at the national level to prevent these crimes. However, as will be discussed in more detail in the next section, the universal applicability of the Resolutions is not uncontested – neither is the legal status of these instruments. Therefore, the universal responsibility of States to realize the abovementioned objectives is still a matter of debate.

### 3. Highlighting the Ambiguities

#### 3.1. Uncertainty about the Legal Status of the WPS Agenda

Since the adoption of Resolution 1325, the legal status of the document, and consequently of all the following resolutions of the WPS framework, has been unclear.<sup>26</sup> The lack of agreement on the issue is not a surprise, as the question whether the WPS Resolutions create legally binding obligations for States echoes the highly controversial issue of the law-making authority of the UN Security Council.<sup>27</sup> Although it is explicitly stated in Article 25 of the UN Charter that the UN Member States are obliged ‘to accept and carry out the decisions of the Security Council in accordance with the Charter’, the acceptance of a general law-making competence of the Security Council

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<sup>23</sup> UNSC Res. 2242, para. 1.

<sup>24</sup> Ibid.

<sup>25</sup> CEDAW, Art. 2.

<sup>26</sup> A. Swaine, ‘Globalizing Women, Peace and Security: Trends in National Action Plans’, in *Rethinking National Action Plans on Women, Peace and Security*, NATO Science for Peace and Security Series, ed. S. Aroussi (Amsterdam: IOS Publishing, 2017), 9.

<sup>27</sup> T. Tryggstad, ‘Trick or Treat? The UN and Implementation of Security Council Resolution 1325 on Women, Peace and Security’, *Global Governance* 15.4 (2009): 544-45.

raises fair concerns. A number of scholars<sup>28</sup> have pointed out that the Council is a highly politicized body, neither checked nor balanced by any other entity. Therefore, the increasing amount of quasi-judicial and quasi-legislative actions that the Security Council undertakes raises questions about the interpretation of Article 25 and its scope of applicability. While it is not contested that on the basis of Article 39 of the UN Charter, in situations considered a threat to international peace and security, the Council has the competence to adopt coercive resolutions binding for the UN Member States, this competence to become ‘a global executive *sans pareil*’<sup>29</sup> is argued not to be a rule, but an exception. However, since the late 1990s<sup>30</sup> the sphere of the Council’s decision-making has broadened significantly, which resulted in new forms of resolutions referred to as thematic or declaratory. The legal power of these instruments, with the WPS Resolutions among them, is, on the one hand, supported by the general obligation of Article 25 and the global authority of the Security Council, and on the other hand, opposed by the abovementioned concerns to accept the fact, that the political organ, dominated by five permanent members with a veto power, can create universally binding international law without checks and balances.

It must be stated here that although the issue of reviewing the sources of international law is a very present discussion in legal scholarship,<sup>31</sup> what remains the basis of the sources of public international law is Article 38(1) of the Statute of the International Court of Justice. However, although the resolutions and decisions of international organizations’ organs are not included in the said provision, they can become binding sources of law for organizations’ members, if they agreed for that in the accession instrument. As the UN Charter is a treaty with binding effect, and the Security Council and its prerogatives are established by the Charter, the Council has the competence to create *hard law* for the UN Member States, but only within the limits of its authority delineated in the Charter. This brings the reasoning back to the interpretation of Article 25 and to the question of which resolutions of the Council are legally binding, and which are not.

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<sup>28</sup> See e.g., J. Schott, ‘Chapter VII as Exception: Security Council Action and the Regulative Ideal of Emergency’, *Northwestern Journal of Human Rights* 6.1 (2008): 24; M. Wood, ‘The Interpretation of Security Council Resolutions, Revisited’, *Max Planck Yearbook of United Nations Law Online* 20.1 (2017): 1-35; A. Tachou-Sipowo, ‘The Security Council on Women in War: Between Peacebuilding and Humanitarian Protection’, *International Review of the Red Cross*, 877.92 (2010): 212-13.

<sup>29</sup> Schott, ‘Chapter VII as Exception’, 29.

<sup>30</sup> Tryggestad, ‘Trick or Treat?’, 544.

<sup>31</sup> See e.g., J. Pauwelyn, ‘Is It International Law or Not, and Does It Even Matter?’, in *Informal International Lawmaking*, eds. J. Pauwelyn, R. Wessel & J. Wouters (Oxford: Oxford University Press, 2012), 125-61.

One of the approaches to the problem supported by the Advisory Opinion of the International Court of Justice is that the legal effect of the Security Council's resolutions should be assessed on a case specific-level, by analysis of certain features of a particular instrument. The Court has stated that:

‘The language of a resolution of the Security Council should be carefully analysed before a conclusion can be made as to its binding effect. In view of the nature of the powers under Article 25, the question whether they have been in fact exercised is to be determined in each case, having regard to the terms of the resolution to be interpreted, the discussions leading to it, the Charter provisions invoked and, in general, all circumstances that might assist in determining the legal consequences of the resolution of the Security Council.’<sup>32</sup>

While this view makes a strong argument in the theoretical debate on the law-making authority of the Council, it does not resolve the ambiguities around the legal effect of the WPS Resolutions particularly.<sup>33</sup> The discussion on the latter stays open and different scholars have formulated rather opposite opinions on the legal status of the framework.<sup>34</sup> What seems to be a dominant view though – and most probably evolving from the remaining uncertainties – is that the WPS Agenda consists of *soft law* instruments, building a policy framework, nevertheless with a normative value.<sup>35</sup> Although this approach partially solves the problem on the level of definitions, it does not clarify how to ensure the implementation of the WPS Resolutions. As will be argued in section 4, the human rights-based approach has the potential to resolve the remaining ambiguities.

### 3.2. Uncertainty about the Scope of Application of the WPS Agenda

As discussed in part 2, the WPS Agenda is multidimensional and touches upon several thematic issues, related not only to conflict and post-conflict situations but also to prevention of CRSV during times of peace. The measures which States should implement during peacetime are addressed in

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<sup>32</sup> Advisory Opinion on Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), *I.C.J. Reports*, 21 June 1971, 16.

<sup>33</sup> Swaine, ‘Globalizing Women, Peace and Security’, 9; M. Adamczewska, ‘Transforming Commitment into Compliance: Realizing the Women, Peace and Security Agenda in the United Nations System’ (unpublished thesis, 2018). For more information contact the author at mil-aadamczewska@gmail.com.

<sup>34</sup> A. Barrow, ‘Operationalizing Security Council Resolution 1325: The Role of National Action Plans’, *Journal of Conflict and Security Law* 21.2 (2016): 251; C. Fuijio, ‘From Soft to Hard Law: Moving Resolution 1325 on Women, Peace and Security Across the Spectrum’, *Georgetown Journal of Gender and the Law* 9.1 (2008): 231.

<sup>35</sup> Swaine, ‘Globalizing Women, Peace and Security’, 9-10.



the WPS Resolutions to '[UN] Member States',<sup>36</sup> which could seem to leave their universal applicability uncontested. Although it is indeed a dominant view that the WPS Resolutions are addressed to all UN Member States, whether it is a conflict-related situation or not, there are nevertheless some dissenting voices in the debate.

Building on the argument that the Security Council's decision-making powers should not go beyond situations directly related to threats or breaches of international peace and security,<sup>37</sup> it can be raised that the WPS Agenda is addressed only to the States in conflict situations or post-conflict phase. The opinion of the limited applicability of the WPS Resolutions is continuously brought up at the UN Security Council by Russia, which refuses to implement the WPS Agenda, and argues that even for conflict-affected States, the national implementation is still voluntary.<sup>38</sup>

Although being in strong minority, the abovementioned views have considerable consequences in practice. If a permanent member of the UN Security Council refuses to engage in the implementation process, the matter clearly stays open to contestation and dependent on the political will of States. And Russia is not the only country to blame. It can also be argued that in the course of the WPS Agenda's development, it was not stressed enough that the Resolutions are applicable also during peace, and that only recently the UN has started to strongly advocate for this approach.<sup>39</sup>

### 3.3. Uncertainty about the Implementation of the WPS Agenda

In line with the growing recognition of the WPS Agenda on the one hand, and with the increased demand for some kind of indicators of States' commitment on the other,<sup>40</sup> the National Action Plans (NAPs) on WPS have gained significant international attention in the recent years. As national policy instruments which incorporate the WPS Resolutions into domestic jurisdictions, they give national expression of the objectives of the WPS Agenda and can serve as States' commitments of engagement in the implementation process.

Although the first reference to NAPs was made already in 2002 in a Security Council Presidential Statement, it was not until 2015 that they were incorporated in the operational part of one of the WPS Resolutions, namely Resolution 2242. Before that, merely brief references to the NAPs have been made in preambular paragraphs of Resolution 1889 (2010) and Resolution 2122 (2013). Even when

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<sup>36</sup> See e.g., UNSC Res. 1325, para. 1; UNSC Res. 2242, para. 1.

<sup>37</sup> See section 3.1.

<sup>38</sup> Swaine, 'Globalizing Women, Peace and Security', 11-12.

<sup>39</sup> Renzulli, 'Women and Peace', 211.

<sup>40</sup> Swaine, 'Globalizing Women, Peace and Security', 9-10.

included in the operative part, adoption of a NAP has been nevertheless far from a strong directive. On the contrary, the Security Council only '[w]elcome[d] the effort of Member States to implement [R]esolution 1325 (2000), including the development of national action plans.'<sup>41</sup> The weak and non-directive language leaves no doubt that the WPS Agenda itself does not introduce NAPs as an obligatory implementation tool. Therefore, its adoption stays under the full discretion of States and dependent on their political will and policy interests.

Nevertheless, the number of NAPs adopted by the UN Member States has been continuously growing and reached the number of 74 (38% of the total of UN Member States) in June 2018.<sup>42</sup> The instruments have been optimistically presented in the literature as 'major mechanisms of policy diffusion for the WPS agenda',<sup>43</sup> 'vehicles to drive the implementation of SCR1325'<sup>44</sup> and a 'remedy to the implementation deficit'.<sup>45</sup> On the other hand, they are at the same time subject to ongoing examinations and critique.<sup>46</sup>

The extensive engagement of different actors in the development and examinations of NAPs, accurately called a 'NAP Industry in itself',<sup>47</sup> can also be seen as a reflection of the uncertainties surrounding these instruments. In the absence of clear and coherent guidelines on NAPs, the number of opinions, recommendations and suggestions, both from scholars and practitioners, is on the rise.<sup>48</sup> The fragmentation of ideas on the appropriate adoption and implementation of a NAP is reflected in the reality of their global diversity. The existing NAPs are very far from representing any standardization: they vary with regards to focus, content, form, and structure. While in some countries they are considered part of foreign policymaking (usually in the Western States), in others (usually in States in the conflict or post-conflict phase) as a nationally-oriented issue. Some NAPs (like Ireland's NAP of 2015<sup>49</sup>) are comprehensive and aim to reflect all the issues covered by the WPS Resolutions, while others (like the Norwegian NAP of 2015)<sup>50</sup> are very selective or even focused solely on

<sup>41</sup> UNSC Res. 2242, para. 2.

<sup>42</sup> PeaceWomen 'National Action Plans for the Implementation of UNSCR 1325 on Women, Peace, and Security', <http://www.peacewomen.org/member-states>, 27 September 2018.

<sup>43</sup> True, 'Explaining the Global Diffusion of the Women, Peace and Security Agenda', 309.

<sup>44</sup> Barrow, 'Operationalizing Security Council Resolution 1325', 273.

<sup>45</sup> Swaine, 'Globalizing Women, Peace and Security', 8.

<sup>46</sup> See e.g., S. Aroussi (ed.) *Rethinking National Action Plans on Women, Peace and Security* (Amsterdam: IOS Press, 2017).

<sup>47</sup> Swaine, 'Globalizing Women, Peace and Security', 23.

<sup>48</sup> See e.g., Aroussi, *Rethinking National Action Plans on Women, Peace and Security*; Z. Lippai & A. Young, *Creating National Action Plans: A Guide to Implementing Resolution 1325* (Inclusive Security, 2017); PeaceWomen, 'National Action Plans for the Implementation of UNSCR 1325 on Women, Peace and Security'.

<sup>49</sup> Government of Ireland, *Ireland's Second National Action Plan on Women, Peace and Security 2015-2018* (Dublin, 2015).

<sup>50</sup> Norwegian Ministries, *National Action Plan Women, Peace and Security 2015-18* (Oslo, 2015).

the development assistance for specific States. Moreover, only 52% of existing NAPs include any reporting or reviewing mechanism, and as much as 77% of them do not include any budget allocated for its realization.<sup>51</sup>

### 3.4. Saving the Potential of the WPS Agenda

The previous section has shown the implementation challenges (the remaining uncertainties about their legal status, their scope of applicability and the mechanisms of their implementation) which the WPS Resolutions are facing. It is contested whether the WPS Agenda consists of binding obligations or guiding principles and although States' duty to comply with the WPS Resolutions derives from Article 25 of the UN Charter, the instruments are nevertheless dominantly perceived as *soft law*. Therefore, the scope of applicability and expected ways of implementation of the WPS Resolutions can be contested and interpreted in different ways. Consequently, the measures to prevent CRSV introduced by the WPS Agenda are not incorporated by States in their domestic policies as they should be, which has impacted the potential of the WPS Resolutions to enhance the prevention of CRSV and THB in national policies and laws. To remedy this, there is a need for a coherent conceptual approach to the WPS Agenda, which could resolve the remaining uncertainties, enhance the implementation of the Resolutions and use their capacity to improve the prevention of CRSV in domestic policies. The remaining part of the article will argue that the human rights-based approach can fulfill this role.

## 4. The Solutions Offered by the Human Rights-Based Approach

The idea of looking at the WPS Agenda from a human rights perspective is not new – it has been proposed and even highly recommended by the UN Global Study on the implementation of Resolution 1325<sup>52</sup> and by the UN Secretary-General in his annual reports on the issue.<sup>53</sup> Furthermore, this 'conceptual framework'<sup>54</sup> is more widely used in international development programs and humanitarian policies, following the premise that they should be planned, implemented and evaluated with consideration for international

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<sup>51</sup> PeaceWomen, 'National Action Plans for the Implementation of UNSCR 1325 on Women, Peace and Security'.

<sup>52</sup> UN Women, *The Global Study*, 350.

<sup>53</sup> UN Security Council, *Report of the Secretary-General on WPS*, para. 72.

<sup>54</sup> UN Development Group – Human Rights Working Group, 'HRBA Portal – What Is a Human Rights-Based Approach?', <https://hrbaportal.org/faq/what-is-a-human-rights-based-approach>, accessed 20 August 2018.

human rights standards. This trend is complemented by the scholarly view that International Humanitarian Law does not surpass International Human Rights Law, thus that the latter is applicable also in the time of conflict.<sup>55</sup> Consequently, each policy or legal framework can be reviewed through human rights lenses, to see which rights and corresponding obligations are related to the framework at stake. Several advantages of this perspective can be identified. Firstly, the human rights-based approach to policy or *soft law* instruments can offer them the normative support of international human rights treaties. Secondly, it can clarify States' responsibility and provide instruments for holding them accountable. Thirdly, the approach guarantees that the fundamental values of human rights, for instance, non-discrimination, are put at the centre of policies and programs, which is argued not only to be morally correct but also to bring better realization of the policy objectives.<sup>56</sup>

This article will adopt the above-mentioned advantages to the case of the WPS Agenda. It will discuss the synergies between the international human rights system and the WPS Resolutions as well as the practical consequences of this approach to the Agenda's implementation struggles. It will be argued that the Agenda should be seen as consisting of women's human rights, as this perspective can back the WPS Resolutions with legality and consequently, resolve the remaining ambiguities about their legal effect, applicability, and implementation.

#### 4.1. Clarifying the Legal Status - the Synergy with the Human Rights System

Despite the ongoing discussion on the obligations of States under Article 25 of the UN Charter to comply with all the decisions of the UN Security Council, the years since the adoption of Resolution 1325 has shown that it is dominantly considered as a *soft law* instrument.<sup>57</sup> While the issue of reviewing the sources of international law is presently discussed in legal scholarship,<sup>58</sup> it is uncontested that by Article 38 of the Statute of the International Court of Justice, treaties are, and will be, the source of binding obligations for States. Therefore, a human rights-based approach based on treaty-based obligations of States can offer normative support to the WPS Resolutions, and clarify the legal status of obligations included in the latter. The analysis of how

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<sup>55</sup> S. Sivakumaran, 'International Humanitarian Law', in *International Human Rights Law*, ed. D. Moeckli (Oxford: Oxford University Press, 2014).

<sup>56</sup> UN Development Group – Human Rights Working Group, 'HRBA Portal – What value does a human rights-based approach add to development?', <https://hrbaportal.org/faq>, accessed 20 August 2018.

<sup>57</sup> See section 3.1.

<sup>58</sup> See e.g., Pauwelyn, 'Is It International Law or Not, and Does It Even Matter?'

the WPS Resolutions overlap with the International Human Rights Treaties, especially with the CEDAW, supports the argument that the obligations of the WPS Agenda are binding for 189 State Parties to the CEDAW<sup>59</sup> and other treaties at stake.<sup>60</sup> Consequently, also the monitoring and enforcement mechanisms of the UN Human Rights System, safeguarding compliance with the human rights treaties, can contribute to fostering the implementation of the WPS Resolutions. Due to the scope of this article, the main focus here will be on the synergy between the WPS Agenda and the CEDAW, as well as the role of the CEDAW Committee deriving from it. However, to highlight that the relationship between the WPS Resolutions and international human rights framework is broader than their crossover with the CEDAW, reference will also be made to the Universal Periodic Review, being the primary mechanism of the UN Human Rights Council to assess the situation of overall compliance with human rights in each UN Member State.

While the CEDAW obliges States in Article 6 to suppress all forms of trafficking in women, neither violence against women in general, nor conflict-related sexual violence are specifically mentioned in a single provision of the Convention. However, the international women's rights framework has matured over the years, with a special role played by General Recommendation No. 19 of the CEDAW Committee. Adopted in 1992, General Recommendation No. 19 made it clear that all forms of violence against women (in times of peace and conflict) should be seen as a form of discrimination as defined by Article 1 of the CEDAW,<sup>61</sup> thus State parties to the Convention are obliged to condemn these crimes, on the basis of Articles 2 and 3. This interpretation has been confirmed by several instruments of the international women's rights framework developed over the years, like the Declaration on the Elimination of Violence against Women,<sup>62</sup> the Beijing Declaration and Platform for Action<sup>63</sup> or lately, the General Recommendations No. 35 of the CEDAW Committee.<sup>64</sup> Although neither General Recommendations of the UN Treaty Bodies, nor the declarations mentioned above, are binding on the basis of Article 38(1) of the Statue of the ICJ, and the CEDAW remains the only instrument on women's rights with the legal effect as such, the interpretations of the Convention consequently proposed

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<sup>59</sup> 'United Nations Treaty Collection', [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en), accessed 20 September 2018.

<sup>60</sup> For instance, Convention on the Rights of the Child or International Covenant on Economic, Social and Political Rights.

<sup>61</sup> UN CEDAW Committee, *General Recommendation No. 19, para. 6*.

<sup>62</sup> UN General Assembly, *Declaration on the Elimination of Violence against Women (A/RES/48/104)*, 20 December 1993.

<sup>63</sup> United Nations, *Beijing Declaration and Platform for Action (A/CONF.177/20)*, 17 October 1995.

<sup>64</sup> UN CEDAW Committee, *General Recommendation No. 35: Gender-Based Violence against Women, Updating General Recommendation No. 19 (CEDAW/C/GC/35)*, 14 July 2017.

by ‘the most highly qualified publicists of the various nations’<sup>65</sup> can serve as the subsidiary source of international law. As the view that CEDAW is applicable to gender-based violence is confirmed in legal scholarship,<sup>66</sup> it can be stated that the Convention obliges its State Parties to condemn sexual violence – both in peacetime and situations of conflict.

However, as argued in section 2, the WPS Resolutions build on the general duty of States’ to prevent sexual violence against women, but also go further, and specify which positive measures States should undertake to realize their obligations. Among them are the responsibilities related to combating structural gender inequalities, which the WPS Agenda proposes as a form of prevention from CRSV. The synergy of the WPS Resolutions and the CEDAW is thus broader than the direct obligation to eliminate discrimination in the form of sexual violence. In fact, it can be said that ‘all the areas of concern addressed in those [WPS] resolutions find expression in the substantive provisions of the Convention’.<sup>67</sup> This view, proposed by the CEDAW Committee in General Recommendation No. 30, finds its grounds in the argument that both the CEDAW and the WPS Resolutions have the fight against gender inequality as their core objective.

The standard tool which the CEDAW Committee uses to review and urge for compliance with the CEDAW is its reporting procedure.<sup>68</sup> Every four years, the State parties are obliged to report what measures they have adopted in order to implement the Convention and, according to General Recommendation No. 30, they should include in their reports information on the implementation of the WPS Resolutions.<sup>69</sup> The CEDAW Committee can thus monitor this implementation process, as well as urge States to improve it. While the value of the reporting procedure is dependent on the involvement of States in that process, it must be nevertheless acknowledged that the Committee is doing its best to go beyond States’ reports and review the real situation *on the ground*. The concluding observations on the situation in Syria<sup>70</sup> can serve as good example of these efforts, as the Committee based them dominantly on the demands submitted by Civil Society Organizations in their shadow reports.<sup>71</sup>

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<sup>65</sup> International Court of Justice, Statute of the International Court of Justice, Art. 38(1).

<sup>66</sup> See e.g., C. Chinkin, ‘Violence against Women: The International Legal Response’, *Gender & Development* 3.2 (1995): 23-28.

<sup>67</sup> UN CEDAW Committee, *General Recommendation No. 30: Women in Conflict Prevention, Conflict and Post-Conflict Situations* (CEDAW/C/GC/30), 1 November 2013, para. 26.

<sup>68</sup> CEDAW, Art. 18(1).

<sup>69</sup> UN CEDAW Committee, *General Recommendation No. 30*, para. 27.

<sup>70</sup> UN CEDAW Committee, *Concluding Observations on the Second Periodic Report of Syria* (CEDAW/C/SYR/CO/2), 18 July 2014.

<sup>71</sup> For the explanation of ‘shadow reporting’ see UN, ‘NGO Participation in CEDAW Sessions’, <http://www.un.org/womenwatch/daw/ngo/cedawngo>, 15 October 2018.

However, a lot has been said to criticize the effectiveness of the CEDAW Committee and its dependence on State Parties' fulfillment of their reporting duties.<sup>72</sup> The Committee is also limited in its reviewing prerogatives to the exact provisions of the Convention it monitors, which does not reflect the interdependence of human rights. Women's rights particularly need a universal and integrated approach, as they should not be regarded as a separate field of human rights, but instead, as an integrated part of each human rights convention. Enforcement of the WPS Resolutions by the CEDAW Committee can also face the risk of being regarded as a *women's issue*, thus not being treated seriously by States.<sup>73</sup> What can save the WPS Agenda from this opinion though, is the counter-practice of States, which have the power of influencing each other and building certain social norms in their international relations.

An excellent example of a diplomatic forum, where these standards of behavior are created towards human rights, is the UN Human Rights Council. Its monitoring mechanism, the Universal Periodic Review (UPR)<sup>74</sup>, should be thus assessed as a possible tool to enhance compliance with the WPS Agenda which the human rights-based approach to the latter suggests. The famous quote of the Secretary-General on the role and significance of the UPR characterizes it as a mechanism 'with a great potential to promote and protect human rights in the darkest corners of the world'.<sup>75</sup> Indeed, the procedure engages all the UN Member States, making it possible to check and address compliance with human rights obligations even in countries which are not parties to human rights treaties. This substantial universality, being one of the fundamental principles of the UPR,<sup>76</sup> is relevant not only with regards to the participants in the discussions. The issues discussed are also universal. Any topic can be highlighted and raised, and any recommendation can be made for the State undergoing the review. Consequently, which topics are raised and discussed becomes much more than statistics. It can be seen as both indicator and trigger of the international importance of a particular issue.

The available statistics reveal that the UPR is not using its forum to put the spotlight on the WPS Resolutions. Since April 2008, when the first cycle of the

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<sup>72</sup> A. Byrnes, 'The "Other" Human Rights Treaty Body: The Work of the Committee on the Elimination of Discrimination Against Women', *Yale Journal of International Law* 14.1 (1989): 1-67.

<sup>73</sup> J. Riddle, 'Making CEDAW Universal: A Critique of CEDAW's Reservation Regime under Article 28 and the Effectiveness of the Reporting Process Note', *George Washington International Law Review*, 34 (2002): 605-38.

<sup>74</sup> UN Human Rights Council Resolution 5/1 (A/HRC/RES/5/1), 7 August 2007; the Resolution sets out the framework of the Universal Periodic Review.

<sup>75</sup> UN Secretary General, 'Secretary-General's Video Message for the Opening of the Fourth Session of the Human Rights Council', <https://www.un.org/sg/en/content/sg/statement/2007-03-12/secretary-generals-video-message-opening-fourth-session-human-rights>, 18 July 2018.

<sup>76</sup> Moeckli, *International Human Rights Law*, 363-64.

UPR began, until 2016 when the second cycle was completed,<sup>77</sup> a total of 57,686 recommendations were made.<sup>78</sup> Of these recommendations, 10 718 were related to the general issue of women's rights, 1177 to either the ratification of or compliance with CEDAW, and only 36 to the WPS Agenda.

It is impossible to predict if a higher number of recommendations would contribute to resolving the WPS Resolutions' implementation struggles, but there are reasons to believe so. If the WPS Agenda would be brought up at the UPR forum more often, it would get more recognition and attention, and States would have to prove that they value the WPS Resolutions, respect the obligations they include and wish to hold other States to account for their implementation. The human rights-based approach to the WPS Agenda gives ground to the argument that these obligations are binding human rights obligations of States, which also supports the call for broader engagement with the issue of their implementation at the forum of the Human Rights Council.

#### 4.2. Confirming the Universal Applicability

Approached from the human rights-based perspective, the issue of applicability of the WPS Resolutions during peacetime gains new arguments against opponents. Since, as UN Women suggests, Resolution 1325 was 'conceived of and lobbied for as a human rights resolution',<sup>79</sup> it becomes clear that universal applicability of international human rights relates to the WPS framework as well. This means first and foremost that all UN Member States should have a NAP and get genuinely involved in realizing the WPS Resolutions. Further, it also means that the obligations established by these instruments are applicable during peacetime and that States are required to implement the measures of prevention irrespective of the existence of an armed conflict.

As it was indicated in section 2 of this article, the peaceful aspect of the framework is envisaged in the prevention pillar, which requires action 'before, as well as irrespectively of the likelihood of, the eruption of conflict'.<sup>80</sup> Prevention understood as such, refers then to both short-term strategies, preventing the immediate threat to security, and to the efforts which address the root and structural causes of conflict.

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<sup>77</sup> The third cycle, started in May 2017 is currently ongoing, thus the statistics on recommendations are not available yet.

<sup>78</sup> UPR Info, 'Universal Periodic Review Global Statistics on the Recommendations and Voluntary Pledges', <https://www.upr-info.org/database/statistics/>, accessed 18 July 2018.

<sup>79</sup> UN Women, *The Global Study*, 15.

<sup>80</sup> Renzulli, 'Women and Peace', 212.



Although the recognition of the positive correlation between gender equality and international peace and security is certainly not new<sup>81</sup> and seems to be increasing, the awareness is not reflected in actions. CRSV is regarded, as the UN Special Rapporteur on Violence Against Women has phrased it, as ‘different and exceptional, as opposed to it being a continuation of a pattern of discrimination’.<sup>82</sup> Consequently, prevention from CRSV is dominantly discussed with regards to conflict-affected countries, as if it was a duty of wealthy donor States to support prevention in States where CRSV has recently occurred. With regards to the WPS Agenda, this approach is very much visible in the foreign policy-oriented NAPs<sup>83</sup> focused on development support for the other States instead of applying the WPS prevention objectives also to the internal policy context.

The human rights-based perspective, adopted in the NAPs, has the potential to overturn the abovementioned pattern. It highlights that the WPS Resolutions are universally applicable, that they consist of normative obligations already applicable to States, and puts the focus on their prevention facet, which shall be realized by all UN Member States through, inter alia, combating gender inequalities *in their own backyards*. This means, for instance, addressing gender equality in their own military structures by increasing the proportion of women, as well as educating the troops on preventing sexual and gender-based crimes. The remaining part of the article will suggest how this universal applicability could be realized in practice, through human rights-based implementation of the WPS Resolutions.

#### 4.3. Explaining the Implementation Duties – Strengthening Prevention of CRSV and THB through the Engagement of Civil Society Organizations

With the ever increasing number of NAPs and the ‘NAP industry’ developed alongside of them, it is fair to say that they became the most common tool of implementation of the WPS Resolutions. To give more than empty promises, it is thus particularly important that the NAPs follow transnational standards and fulfill certain requirements. While it is a current challenge for policy-makers and scholars to define which features make these instruments effective and transformative drivers of implementation, the concept defended here is that they should incorporate the human rights-based approach to the WPS framework and put more focus on combating domestic gender inequalities. What derives from this perspective is that NAPs should include more

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<sup>81</sup> See e.g., Institute for Economics and Peace, *Positive Peace Report 2017*; Human Rights Council, *Report of the Special Rapporteur on Violence against Women (A/HRC/26/38)*, 28 May 2014; UN Women, *The Global Study*, 350.

<sup>82</sup> Human Rights Council, *Report of the Special Rapporteur on Violence against Women*, para. 66.

<sup>83</sup> As Norwegian National Action Plan on Women, Peace and Security 2015, see section 3.3.

strategies aimed to change social norms and constructs which are at the roots of gender-based discrimination, which ‘trigger violence before, during and after the war’.<sup>84</sup> This part aims to argue that in practice, these objectives shall be realized through the comprehensive involvement of Civil Society Organizations (CSOs).

Although the existing guidelines<sup>85</sup> for the adoption of a NAP highlight that the process must be based on a partnership with CSOs, their importance is still very often undervalued. States’ opinions on the matter are also divided, as some countries (for example, Norway, Finland, and Denmark) conducted consultations only once the draft plans were made, while the Dutch government invited civil society stakeholders to participate from the very beginning of the planning process. The latest NAP of the Netherlands (2016-2019)<sup>86</sup> can therefore serve as an example of the inclusive approach to its development process and good results of the approach as such. Not only is it recognized in the instrument that WPS Resolutions shall be seen as a part of the international human rights framework but that harmful gender norms are also obstacles to sustainable peace. Consequently, the NAP formulates numerous specific activities focused on increasing gender equality and assigns them to different signatories, with governmental and non-governmental entities among them.

Although following the Dutch example (or any of the available guidelines on NAPs development) can undoubtedly result in a high-impact, inclusive and transformative plan, the creation of the NAP is when the implementation process should begin, not end. The reality is notoriously proving that States’ commitments are very often no more than empty promises, which is particularly common in the field of women’s rights and gender-mainstreaming policies. The role of CSOs is crucial at this stage – they serve as watchdogs, conduct monitoring activities, become the voice of the voiceless, lobby for the political will of action and step in when the government is unwilling or unable to act. The significance of CSOs in the particular case of gender-based violence has been confirmed by numerous studies,<sup>87</sup> with the most prominent example being the research by Htun and Weldon (2012)<sup>88</sup>, focused on the patterns of global proliferation of national policies tackling violence against women. The authors conducted a comprehensive empirical study to check which variables had the most significant influence on the diffusion of the norms at stake, which revealed

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<sup>84</sup> UN Women, *The Global Study*, 71.

<sup>85</sup> See e.g., Lippai & Young, ‘Creating National Action Plans’.

<sup>86</sup> 1325 Dutch NAP Partnership, *National Action Plan on Women Peace and Security 2016-2019* (The Hague, 2016).

<sup>87</sup> S. Zwingel, ‘How Do Norms Travel? Theorizing International Women’s Rights in Transnational Perspective’, *International Studies Quarterly* 56.1 (2012): 118-20.

<sup>88</sup> M. Htun & S. Weldon, ‘The Civic Origins of Progressive Policy Change: Combating Violence against Women in Global Perspective, 1975-2005’, *American Political Science Review* 106.3 (2012): 548-69.

that strong, independent feminist movements had the most significant impact, both time and geographical wise.<sup>89</sup> Moreover, what Htun and Weldon suggest in their analysis is that the influence of civil society is related to the crucial role they play in translating international norms into the local context. Therefore, it can be argued that CSOs have the potential to guarantee that the implementation of international norms *on the ground* is effective and fits local priorities and context. The development of a framework on prevention from domestic violence can serve as an example of the role played by CSOs in the process of norms' translation. As the understanding of what constitutes domestic violence significantly depends on the cultural context, the international framework on prevention of this phenomenon would not have been implemented with the researched success, if it was not for the CSOs that worked on changing the social norms and beliefs.

The above-discussed case supports the argument that civil society should be engaged not only in the development of a NAP but also, or even especially, in the process of actual realizing WPS objectives. It should be acknowledged here that this is not an unrealized wish. There are numerous examples of the involvement of CSOs in the implementation of WPS Resolutions – both studied in literature,<sup>90</sup> like the case of the Balkans,<sup>91</sup> and summarized by UN Women in the 2015 Global Study.<sup>92</sup> The latter revealed not only the impactful work of the organizations but also the obstacles which limit their effectiveness. The majority of responding CSOs identified the lack of resources as the biggest constraints. This does not come as a surprise, considering the fact that only 23% of 74 States which have adopted an AP until June 2018 have allocated any budget for its realization.<sup>93</sup>

The organizations that participated in the discussed survey further pointed out the urgency of prioritizing the preventive component of the WPS Agenda and repeatedly stressed the need for long-term, comprehensive strategies that target root causes, not the symptoms of conflicts. This call for action supports the core argument made here: the human rights-based approach to the WPS Resolutions' implementation is urgently needed. As was demonstrated, CSOs have the potential to realize this theoretical approach in practice and to guarantee that NAPs on WPS are more than empty promises. However, they cannot fulfill this role unless the States acknowledge the importance of addressing the root

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<sup>89</sup> Ibid.

<sup>90</sup> True, 'Explaining the Global Diffusion of the Women, Peace and Security Agenda', 316.

<sup>91</sup> Irvine, 'Leveraging Change', for the case of Bosnia and Herzegovina and Kosovo.

<sup>92</sup> Its results —based on 317 responses from CSOs active in 71 countries and on 17 focus group discussions held in 16 countries with over 200 participants, are summarized in UN Women.

<sup>93</sup> PeaceWomen, 'National Action Plans for the Implementation of UNSCR 1325 on Women, Peace and Security'.

causes of CRSV and THB, engage in human rights-based implementation and foremost, provide for the CSOs operational and financial support.

## 5. Conclusion

The WPS Resolutions of the UN Security Council are an essential part of the international framework to prevent conflict-related sexual violence and trafficking in human beings. The impact of the WPS Agenda derives not only from its historical significance of bringing gender perspective and women's rights to the forum of the Security Council but also from the normative value of the WPS Resolutions. If genuinely implemented by States, the WPS Resolutions could effectively prevent violations of women's rights in conflict settings, including CRSV against women. Yet, this implementation process is still far from meeting the expectations.

The preliminary argument of this article was that the the WPS Agenda's implementation struggles are to some extent caused by the uncertain legal status of the WPS Resolutions, as well as the other ambiguities deriving from the latter. It has been highlighted and discussed that despite the general duty of UN Member States to comply with decisions of the Security Council on the basis of Article 25 of the UN Charter, the WPS Resolutions are nevertheless dominantly considered as *soft law* instruments. Consequently, it is contested that the WPS Resolutions are applicable in peacetime and should be implemented by all the UN Member States. Neither is it clear for all States how they should implement the WPS Resolutions (through a NAP or otherwise) and what should be content and place of the NAP in the national legal system.

According to this study, these ambiguities impact the potential that the WPS Resolutions have with regards to the prevention of CRSV and THB. Therefore, it has been argued that there is a need for a consistent approach to the WPS Agenda, which will clarify the existing uncertainties and resolve some of the implementation struggles. Following the proposals already made at the international forum, the human rights-based approach has been chosen and presented here as the conceptual framework which can contribute to strengthening the role played by the WPS Resolutions in preventing CRSV and THB. To support the choice of a human rights-based perspective, the article discussed how this approach clarifies the legal status of obligations included in the WPS Agenda and how it confirms their applicability in peacetime. Furthermore, it has also been explained how the States should implement it in practice.

For women and girls,<sup>94</sup> the risks of becoming victims of CRVS or THB exist before the time of conflict, in the form of discrimination and structural gender inequalities.<sup>95</sup> The correlation between peace and the realization of women's rights, core to the WPS Resolutions approached from the human rights perspective, is reflected in the way the WPS Agenda foresees the prevention of CRSV and THB. It should start during peacetime and should be guaranteed by measures that empower, not victimize women and girls – for instance, equal access to decision-making and policy-making on security-related issues, or equal representation in the military and peace-keeping forces. Therefore, the WPS Resolutions require States to combat gender inequalities and discrimination, tackle social norms that fuel them and address in this way the root causes of conflicts and conflict-related crimes.

The human rights perspective on these (indirect) prevention measures included in the WPS Resolutions, reveals that they do not create new international obligations of States. On the contrary, they build on the norms established by international human rights treaties and enrich them with specification and operational context. Consequently, the synergy between the existing international (human rights) laws and the WPS Resolutions sidelines the debate about the resolution's legal status. The legal status of the instruments *per se* becomes irrelevant, to the extent that the norms included in them are already binding upon State-Parties to particular human rights treaties. This synergy has been discussed here primarily with regards to the CEDAW, a treaty that has almost universal ratification. Therefore, the human rights-based approach to the WPS Resolutions also confirms their applicability in peacetime and highlights the importance of applying preventive measures already during peacetime.

The remaining question that is then answered is how these theoretical advantages of the human rights-based approach could be translated into practice and contribute to strengthening the WPS Agenda. This study provided two possible pathways.

Firstly, it has been analyzed how the monitoring mechanisms of the UN Human Rights System can hold States accountable for their WPS commitments. Although the crucial role in this regard is played by the CEDAW Committee, which has already done much to call for reports on the implementation of the WPS Resolutions, the analysis revealed that there is still much space for broader engagement with the issue during the Universal Periodic Review, where States could pressure their peers to implement the WPS Agenda and consequently, confirm the international relevance of the framework.

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94 For the acknowledgment of the limitation of excluding CRSV crimes against men and boys, see footnote 3.

95 For the acknowledgement of the opposing scholarly voices, see footnote 17.

Secondly, the article defends the view that human rights-based implementation of the WPS Resolutions in the national frameworks can be realized with the significant involvement of Civil Society Organizations. By reference to other studies on the diffusion of international norms on violence against women, it has been argued that CSOs play a crucial role in translating international law to the local context, especially if, as in the case of the WPS Agenda, addressing structural gender inequalities is required. Therefore, to guarantee that NAPs follow the suggested human rights perspective, the States should involve CSOs at the very beginning of the planning process instead of consulting them at the latest stage. Moreover, next to the role of norm translators, CSOs have the proven position of both watchdogs of NAPs and their signatories, which monitor States' actions, lobby for the realization of commitments and operationalize the WPS Resolutions *on the ground*. However, they will not be able to fulfill these roles if States do not acknowledge their importance. Firstly, by offering space at the table. Secondly, by providing necessary budget.

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