



**Global
Justice Center**

Human Rights Through the Rule of Law

POLICY BRIEF

UNITED STATES IMPLEMENTATION OF U.N. SECURITY COUNCIL RESOLUTION 1325: GAPS AND CHALLENGES

August 2007

Prepared for the Global Justice Center by Sarah Masters

*Women, who know the price of conflict so well,
are also better equipped than men to prevent or resolve it.
For generations, women have served as peace educators,
both in their families and in their societies.*

They have proved instrumental in building bridges rather than walls.

-UN Secretary-General Kofi Annan (October 2000)

Executive Summary

On October 31, 2000, United Nations Security Council Resolution 1325 (UNSCR 1325) was unanimously voted on by the 15 member Security Council.ⁱ The purpose of this resolution was to highlight war's disastrous impact on women, and the necessity and importance of women's contributions in the prevention, resolution, post-conflict, and reconstruction processes, required to sustain peace and equality.ⁱⁱ

As a member of the United Nations (U.N.), the United States is bound to uphold the principles outlined by the U.N. Charter (the "Charter"), including resolutions passed by the Security Council. Moreover, the U.S. is obligated to heed UNSCR 1325's recommendations to the U.N. based on four additional reasons: (1) Article 25 of the Charter mandates compliance; (2) the U.S. voted for UNSCR 1325; (3) UNSCR 1325 is derived from other binding international treaties; and (4) the U.S. has a moral obligation based on its active role in post-conflict negotiations and peace processes.

I. Domestic Policy

The U.S. has not met its legal obligations under UNSCR 1325 in three major ways. The U.S. has failed to (1) implement complimentary domestic legislation into its domestic policy, (2) support the ICC treaty and Rome Statute, and (3) overturn the Global Gag Rule and Helms Amendment. Unless the U.S. begins to take affirmative steps to rectify these failings, it will continue to be in violation of the responsibilities and obligations of UNSCR 1325.

A. Domestic Legislation

The Committee on Foreign Affairs, Subcommittee on International Organizations, Human Rights, and Oversight, should report H.Res.146 to the full house and to a vote in Congress. This pending bill is a perfect opportunity for the representatives of the American people to show a real commitment to inclusion of women in peace and security processes.

B. International Criminal Court

The ICC is an independent court that would "afford women greater protection from violations of human rights and humanitarian law."ⁱⁱⁱ Due to the efforts of women's rights activists, the ICC has jurisdiction over crimes that reflect varied abuses towards women;^{iv} it has specific rules and procedures for gender-specific crimes; and provides witness protection and other security measures to ensure women are afforded the highest levels of security.^v

C. Global Gag Rule

During armed conflict rape is almost inevitably used as a weapon by the combatants to fuel fear, anxiety, and destabilization in the country. Rape and other sexual violence is an important health issue and women are entitled to complete reproductive healthcare, including access to family planning and abortion information. Due to current legislation, the U.S. (a major global provider of financial assistance) will provide no money to international organizations that provide abortions or comprehensive information on family planning practices as part of their objectives.^{vi} Women are thus forced to carry pregnancies to term and to bear children from these conflicts.

II. FOREIGN POLICY

The U.S. is a strong leader in the democratic processes of post-conflict countries. The U.S. is an important actor, based on both donor money and global influence, on the stages and processes that form new governments in post-conflict countries. UNSCR 1325 is an important international document for institutionalizing women's parity in democracy formation, therefore the U.S. has a significant obligation to implement and enforce UNSCR 1325 in its foreign policies. As a flagship country in post-conflict reconstruction processes, the U.S. must recognize its role in positively enforcing UNSCR 1325 in emerging democracies around the world and ensuring that gender parity is fulfilled in the transitional processes leading to democracy in developing and post-conflict countries.

The U.S. needs to assert diplomatic pressure on developing democratic governments earlier in the peace process and mandate that women be included at all levels of decision-making in situations of peacemaking and are equally represented in Constitution Committees and institutional governments during reconstruction.

Despite UNSCR 1325 there are still glaring omissions of women in peace talks, post-conflict negotiations, and reconstruction processes from conflict-affected countries, as exemplified in the following two country analysis of Angola and Sudan.

A. Angola

By the official end of the 27-year long war, it was estimated that 500,000 people were killed and tens of thousands more were displaced. During the course of the conflict, women were disproportionately impacted by the violence and fatally omitted from the peace process. The 2003 UN Special Rapporteur on Violence Against Women (SRVAW) reported serious attacks on women and rapes by government forces,^{vii} as well as trafficking of women and girls to South Africa and the United Kingdom.^{viii} UNICEF has estimated that 5,000 girls have been unable to return to their families and communities of origin because of these abduction, forced marriages, and pregnancies.^{ix} Even after the civil war came to an official end, Angolan women still feared violence and sexual abuse in their everyday lives.^x

Prior to Angola's 2002 Cease-Fire Agreement (CFA), the U.S. had been heavily involved in Angola's political situation by providing monetary support and by actively participating in the 1991 Peace Accords and the 1994 Lusaka Protocol. In fact, the 2002 CFA's Joint Commission troika (of which the U.S. was a party) was charged with ensuring Angola consolidated the peace in its country, achieved genuine democracy, protected its citizens' rights, and improved the lives of its people.^{xi} The Joint Commission should have used its powerful influence to create a political framework that would benefit all Angolans (especially women), not just certain parties.

The Joint Commission's mandate from the U.N. allowed the U.S. a huge opportunity to assert its influence into the 2002 CFA and implement UNSCR 1325. As a Troika member, the U.S. wielded great diplomatic power over the U.N., UNITA, and the MPLA. The U.S. should have used its influence to ensure that Angolan women were involved at every stage of both the decision-making and peace processes, as well as ensuring the protection and safety of women and girls from gender-based violence, rape, other forms of sexual abuse, and all forms of violence in repatriation camps post-conflict.

B. Sudan

The year before Sudan's independence in 1956, a civil war broke out between Arab and Muslim dominated Northern Sudan and African and Christian dominated Southern Sudan.^{xii} The war lasted for 20 years before the parties signed the Comprehensive Peace Agreement on January 9, 2005.^{xiii} In 2001, Amnesty International Report cited an increase of forced servitude of women and children.^{xiv} Additionally, displaced and refugee women faced threats of sexual violence and abduction from their own family members, who wanted to marry them off for bride-wealth.^{xv} Sudanese women, many left behind or abandoned during the conflict, must shoulder disproportionate burdens in the country's traditional societies because of the country's conflict.^{xvi}

Signed on January 9, 2005, President Clinton's special assistant on African affairs hailed the Comprehensive Peace Agreement (CPA) as being "gender neutral."^{xvii} However, this agreement revealed itself as anything but fair to women.^{xviii} In reality, the CPA contained few provisions that protected or promoted women's rights. The Troika (United States, United Kingdom, and Norway) and IGAD Partners Forum had the leading role in facilitating the signing of the protocols essential for the completion of the CPA. The U.S.'s financial support of the CPA process was critical: the U.S. provided funding for the SPLM/A delegation to travel and other expenses, and the U.S. intervened to break stalemates – including during security arrangement talks and the three disputed areas.^{xix} While the U.S. has given a lot of money to the Sudan for economic recovery, development assistance, and education, it has not focused equal attention on the plight of Sudanese women.^{xx}

The mediators and drafters of the Comprehensive Peace Agreement, the U.S. included, all ignored other constituencies and dimensions along which the government, combatants, and civilians should share power and wealth.^{xxi} The CPA negotiations only focused around an equitable share of power and resources premised around political forces and regional interests – not gender.^{xxii}

Recommendations for US Implementation of UNSCR 1325

1. Adopt 1325 as domestic law and develop a comprehensive national action plan for implementation.
2. Support ending impunity for crimes of sexual violence, including through ratification of the Rome Statute of the International Criminal Court.
3. Repeal the Global Gag Rule and the Helms Amendment.
4. Require post-conflict countries receiving US aid to include women significantly in any peace, post-conflict, and reconstruction processes.
5. Prioritize implementation of UNSCR 1325 at the UN Security Council, particularly during the June 2008 presidency, including sexual and gender based violence as a trigger for Chapter VII action

UNITED STATES IMPLEMENTATION OF U.N. SECURITY COUNCIL RESOLUTION 1325: GAPS AND CHALLENGES

Introduction

On October 31, 2000, United Nations Security Council Resolution 1325 (UNSCR 1325) was unanimously voted on by the 15 member Security Council^{xxiii} and adopted by the Council's Namibian Presidency.^{xxiv} The purpose of this resolution was to highlight war's disastrous impact on women, and the necessity and importance of women's contributions in the prevention, resolution, post-conflict, and reconstruction processes, required to sustain peace and equality.^{xxv} UNSCR 1325 includes recommendations concerning,

[T]he important role of women in the prevention and resolution of conflicts and in peace-building, 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 [and the] need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts^{xxvi}

Member States manifest these recommendations in myriad ways; some examples include an appeal to end impunity and begin prosecution of crimes against women, provide protection for victimized women and girls, and involve more women in peacekeeping operations and post-conflict negotiations and reconstruction.^{xxvii} Countries can also implement these recommendations by including gender perspectives in the rebuilding and reforming of the judicial, legislative, executive, and electoral sectors of post-conflict countries.^{xxviii} Countries should recognize the differential impact of conflicts and rules of law on women and children, and create initiatives that include and ensure gender sensitivity in restorations of rules of law and transitional justices while advancing the full participation of women.^{xxix}

As a member of the United Nations (U.N.), the United States is bound to uphold the principles outlined by the U.N. Charter (the "Charter"), including resolutions passed by the Security Council. Moreover, the U.S. is obligated to heed UNSCR 1325's recommendations to the U.N. based on four additional reasons: (1) Article 25 of the Charter mandates compliance; (2) the U.S. voted for UNSCR 1325; (3) UNSCR 1325 is derived from other binding international treaties; and (4) the U.S. has a moral obligation based on its active role in post-conflict negotiations and peace processes.

Specifically, under Article 25 of the Charter, "[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter."^{xxx} Additionally, the U.S. is a permanent member of the Security Council^{xxxi} and cast one of the unanimous votes in favor of UNSCR 1325 in 2000. Aside from being a Security Council resolution, UNSCR 1325 derives its recommendations from various enforceable and binding treaties and policy documents.^{xxxii} Moreover, UNSCR 1325 refers to the International Criminal Court's Rome Statute, the UN Charter, and other renowned and respected peace building and conflict management documents within its text.^{xxxiii} The Security Council did not create UNSCR 1325 in a vacuum; rather it deliberately crafted UNSCR 1325 to be a legal document that serves to confer more enforceability

on these international laws, such as the Geneva Treaties. UNSCR 1325 also draws language from these treaties to enhance support for women's rights during post-conflict and reconstruction periods in developing democracies.

UNSCR 1325 is the first and only Security Council resolution on women's roles in armed conflicts, peace processes, and reconstruction periods, and is unique in that, "[b]y adopting it, 'the Security Council has created a framework of accountability at the highest levels of peace and security decision-making in the international community.'"^{xxxiv} Finally, when the U.S. is, or has been, an integral and persuasive role in the peace and reconstruction processes of post-conflict countries it has an obligation to assert international pressure and influence to help shape the formations of new democracies. Because of the power it wields in the world, the U.S. has an even greater moral, if not legal, obligation to uphold and enforce the articles of UNSCR 1325 as part of its foreign policy.

Unlike any other U.N. body, the Security Council is in a unique position that has "the power to take decisions which Member States are obligated to carry out by the UN Charter."^{xxxv} This means that the U.S., and all other Member States and actors on the "global stage," have a binding obligation to follow the outlined responsibilities laid out in UNSCR 1325's eighteen articles.^{xxxvi} Thus, for UNSCR 1325 to be properly enforced governments must exert pressure on the U.N., other Member States, and parties to armed conflicts to protect the rights of women and girls during wars and to ensure effective gender perspective during peace building and reconstruction processes.^{xxxvii} The U.S. has recognized that women are integral in a post-conflict country's attainment of lasting peace and security – making this a "security issue" now.

While countries are responsible to uphold the articles of UNSCR 1325, it is important to note that each country, depending on its role in the conflict or on the global stage, has different obligations under UNSCR 1325. Each country has different legal obligations, depending on whether it is a developed, underdeveloped, or conflict country, to implement its responsibilities in a national action plan (NAP). Donor countries are obligated to implement UNSCR 1325 differently from countries suffering from conflict.

For instance, the United Kingdom implemented an extensive 12-point NAP on March 8, 2006,^{xxxviii} to address its obligations and responsibilities under UNSCR 1325. This illustrates how UNSCR 1325 can be legally enforceable with mere rigor, and can encourage an international meaning of "legal rigor" for other Member States to follow. Aside from the U.K., there are several other developed countries that have begun implementing NAPs for UNSCR 1325, including Denmark, Norway, Canada, and Sweden. These countries, unlike the U.S., have all taken the first steps towards fulfilling their obligations under UNSCR 1325 by dedicating funds and resources towards implementing their NAPs.

I. Domestic Policy

However, despite the enforceability and legally binding effect of UNSCR 1325, the U.S. has failed over the past seven years to meet the legal obligations laid out in UNSCR 1325 in three major ways. The U.S. has failed to (1) implement complimentary domestic legislation into its domestic policy, (2) support the ICC treaty and Rome Statute, and (3) overturn the Global Gag Rule and Helms Amendment. Unless the U.S. begins to take affirmative steps to rectify these failings, it will continue to be in violation of the responsibilities and obligations laid out in UNSCR 1325.

A. Domestic Legislation

One important way the U.S. could have met its obligations under UNSCR 1325 would have been to implement domestic legislation mirroring the goals and aims of UNSCR 1325. In fact, Rep. Eddie Bernice Johnson [D-TX] attempted to do just that when she introduced a domestic version of UNSCR 1325 in the House of Representatives on November 4, 2003.^{xxxix} The text of the bill, H.Res.432,^{xl} stated that its purpose was for the House to express the sense that the,

“ . . . U.S. should take action to meet its obligations, and to ensure that all other member states of the U.N. meet their obligations, to women as agreed to in SCR 1325 relating to women, peace, and security, and the U.S. should fully assume the implementation of international law relating to human rights that protect the rights of women and girls during and after conflicts, and for other purposes.”^{xli}

After Rep. Johnson introduced the bill, the House referred it to the Committee on International Relations. Unfortunately, that was the bill’s last major action; it has since died in the House Committee, along with initial hopes that the U.S. might utilize domestic legislation to uphold its legal obligations under UNSCR 1325.

However, Rep. Johnson was undeterred by that setback and on February 8, 2007, she introduced a similar bill into the House of Representatives.^{xlii} The House has since referred the bill, H.Res.146, to the Committee on Foreign Affairs, Subcommittee on International Organizations, Human Rights, and Oversight, where it awaits consideration and debate.^{xliii} In contrast to the bill’s 2003 incarnation, 49 Congressional representatives have co-sponsored H.Res.146 as of July 29, 2007.^{xliv} This pending bill is a perfect opportunity for the Committee to report the measure to the full House and let it go to a vote in Congress. Only then, can the representatives of the American people start to show an actual commitment to UNSCR 1325 and begin to fulfill the U.S.’s obligations as a Member State. Should the bill fail to gain traction in the House and the Senate, the U.S. will once again illustrate its lack of commitment to women’s rights and the security and parity of post-conflict countries. This lack of credibility will undermine the U.S.’s stance as a developed democratic country, committed to equality and justice in the world.

B. International Criminal Court

The second way the U.S. has failed to ensure UNSCR 1325’s obligations are met is the U.S.’s continued repudiation of the International Criminal Court (“ICC”),^{xlv} its withdrawal from the ICC treaty,^{xlvi} and its rejection of the Rome Statute^{xlvii} of the ICC.^{xlviii} The U.S. has refused to support the ICC because of concern by the current administration that “the ICC may exercise its jurisdiction to conduct politically motivated investigations and prosecutions of U.S. military and political officials and personnel.”^{xlix} On May 6, 2002, President Bush finally withdrew the U.S. signature on the ICC treaty, causing outrage and strife amongst the global community.¹ The U.S.’s efforts to undermine the ICC puts global peacekeepers in danger, fails to ensure appropriate justice against countries’ human rights violations, and allows for and encourages impunity towards those crimes.

The ICC is an independent court that would “afford women greater protection from violations of human rights and humanitarian law.”^{li} Due to the efforts of women’s rights activists, the ICC has jurisdiction over crimes that reflect varied abuses towards women,^{lii} it has specific rules and procedures for gender-specific crimes; and provides witness protection and other security measures to ensure women are afforded the highest levels of security.^{liii} The ICC protects women’s rights in five areas: (1) codification of crimes,^{liv} (2) procedural protections for victims and witnesses,^{lv} (3) rules of evidence to protect sexual violence victims,^{lvi} (4) staff expertise on gender and sexual

violence and crimes,^{lvii} and (5) victim participation in the proceedings.^{lviii} The ICC codifies for the first time international, humanitarian, and criminal law acknowledging the severity of gender and sexual violence on women and provides women access to a forum in which they can seek proper justice. As Human Rights Watch notes: “To oppose and undermine the ICC is to squander an important opportunity to safeguard women’s human rights around the world.”^{lix}

The U.S. has launched a “comprehensive campaign to undermine the ICC.”^{lx} Moreover, other signatories to the ICC treaty presume that the only reason why the U.S. opposes the ICC is so that it can entirely immunize American leaders from prosecution of any war crimes.^{lxi} Essentially, the U.S. is undermining the sustainability of the ICC by requesting states around the world to approve separate bilateral agreements with the U.S., requiring them not to surrender American nationals to the ICC (“impunity agreements” or “Article 98 agreements”),^{lxii} and by enacting the American Servicemembers’ Protection Act (ASPA).^{lxiii}

The U.S.’s insistence on “impunity agreements” creates a separate relationship between it and other countries (presumably smaller countries, or ones with weak or fragile economies)^{lxiv} that bypasses the judicial platform of the ICC. Moreover, in effect, these separate agreements lead to the application of two different laws for serious international crimes: one for the U.S. and one for other countries.^{lxv} Additionally, the ASPA^{lxvi} contains four anti-ICC provisions: (1) prohibition on U.S. cooperation with ICC; (2) use of all means necessary and appropriate to free U.S. personnel from the ICC (“invasion of Hague” provision); (3) punishment for national states that join the ICC treaty (*e.g.*, refusing military aid to states’ parties to the ICC treaty, and terminating economic aid); and (4) prohibition on U.S. participation in peacekeeping activities unless U.S. personnel is granted immunity from the ICC.^{lxvii} As Human Rights Watch argues, “the major impact of the Bush administration’s anti-ICC campaign is to diminish the credibility of U.S. efforts to forge coalitions against human rights abusers and to undermine future U.S. efforts to advance international justice in discrete cases”^{lxviii} The failure to ratify the ICC undermines the U.S.’s obligations under Articles 10 and 11 of UNSCR 1325 that call for special measures to protect women and girls from gender-based violence and responsibility of Member States to end impunity and to prosecute responsible parties.

B. Global Gag Rule

The third way the U.S. has failed to sustain its obligations is by upholding the Helms Amendment and enforcing the Global Gag Rule. While the U.S. claims to support women’s rights around the world, it undercuts this message by refusing to overturn stifling and restrictive U.S. legislation, both the Helms Amendment^{lxix} and the Global Gag Rule.^{lxx} During armed conflicts, rape is a widespread tool of the combatants to fuel fear, anxiety, and destabilization in the country. Rape and other sexual violence is an important issue of women’s health, and they are entitled to complete reproductive healthcare, including access to family planning and abortion information. However, because of current legislation, the U.S. (a major global provider of financial assistance) will provide no money to international organizations that provide abortions or comprehensive information on family planning practices as part of their objectives.^{lxxi} This is in an extreme deficiency in U.S. foreign policy, as many armed conflicts utilize mass rape as a weapon, an act that the U.N. has defined as a war crime.^{lxxii} Then, women are forced to carry pregnancies to term and to bear children from these conflicts, without any choice in the matter.

Additionally, because of the deficient or nonexistent state of healthcare systems in most conflict and post-conflict countries, women face an increased risk of mortality by carrying their pregnancies to

term.^{lxxiii} Family planning centers require more funds to provide sufficient prenatal care and trained birth attendants for pregnant mothers.^{lxxiv} However, many family planning organizations have rejected the imposed policy of the Global Gag Rule, resulting in under funded and closed clinics.^{lxxv} As long as the Helms Amendment and Global Gag Rule remain in effect in the U.S., women's healthcare will suffer the world round. Thus, the U.S. is further hindering an already debilitated process for these women.

The U.S.'s opposition to the ICC and its insistence on maintaining an anti-abortion stance for international aid (seen in both the Helms Amendment and Global Gag Rule), continue to affect U.S. foreign policy and its dealings with post-conflict countries. Most recently, a global controversy erupted over how best to deal with the war in Darfur; either refer it to an independent Darfur tribunal or to the ICC.^{lxxvi} For obvious reasons, the U.S. favored an independent tribunal while the majority of the world pushed for an ICC referral. However, when faced with mounting hostility for its stance and the realistic limitations of the Darfur tribunal, where it could take at least another year before prosecutions could begin, the U.S. agreed not to block the Security Council's vote.^{lxxvii} Instead, in March 2005, the U.S. abstained from voting on UNSCR 1593, thus allowing it to pass in the Security Council.^{lxxviii} The U.S., in effect, had acknowledged by its abstention vote that the ICC is the best judicial system to handle the Darfur genocide; in fact, the ICC could begin prosecutions almost immediately.^{lxxix} Although the U.S. did the right thing in supporting the prosecution of genocide in Darfur, to really support global justice, it should ratify the Rome Statute.

II. FOREIGN POLICY

On the global stage, the U.S. has emerged as a strong leader in the democratic processes of post-conflict countries. In fact, in global democracy formation hardly any other country has donated more finances and resources than the U.S. The U.S.'s involvement in the democratic processes of developing and post-conflict countries is so great that the U.S. even touts its leading role in its foreign policy. The U.S. is the strongest player, based on both donor money and global influence, on the stages and processes that form new governments in post-conflict countries. UNSCR 1325 is the most important international document for institutionalizing women's parity in democracy formation, therefore the U.S. has a significant obligation to implement and enforce UNSCR 1325 in both its foreign and domestic policies. As a flagship country in post-conflict reconstruction processes, the U.S. must recognize its role as a developed country to positively enforce UNSCR 1325 in emerging democracies around the world. Thus, the U.S. is obligated to ensure that gender parity is fulfilled in the transitional processes leading to democracy in developing and post-conflict countries.

While the U.S. maintains avid support for UNSCR 1325 and concern for victimized and marginalized women around the globe, its actions seem to detract from this foreign policy. In fact, the U.S. seems only to show its support for UNSCR 1325 and women's involvement by sponsoring workshops and trainings in countries after the post-conflict peace processes have concluded. Rather, the U.S. needs to assert diplomatic pressure on these developing democratic governments earlier in the peace process and mandate that women be included at all levels of decision-making in situations of peacemaking and are equally represented in Constitution Committees and institutional governments during reconstruction.

Despite UNSCR 1325's status as binding international law, there are still glaring omissions of women in peace talks, post-conflict negotiations, and reconstruction processes from conflict-affected countries. Most peace and reconstruction processes, exemplified in the following two countries, still do not consider rape to be more than a minor crime – Angola and Sudan. Laws providing for

compensation for victims oftentimes exclude rape victims.^{lxxx} Instead of protecting these victims, the international community leaves these women at the mercy of local, traditional legal systems that marginalize and demean their ordeals, resulting in inheritance denials for women, the exacerbation of “honor” crimes, and “property” exchanges of women to resolve interclan conflicts.^{lxxxi}

What these two countries have in common, as well as numerous other post-colonial countries, is the struggle for a newly independent nation that incorporates and “accommodate[s] the interests and needs of the country’s multi ethnic society within a framework of pluralist democracy.”^{lxxxii} During peace talks and peacebuilding processes, countries have opportunities and obligations to incorporate women significantly to ensure equality rule. However, countries continue to exclude women, instead reaffirming majority rule and continuing to marginalize certain ethnic, religious, and linguistic peoples.^{lxxxiii} Additionally, ignoring women and other minority peoples during the peace processes have helped strengthen existing inequalities of gender and class, creating shaky peace agreements that were destined to crumble.^{lxxxiv}

A. ANGOLA

1. Conflict Background

From 1975 until 2002, civil war plagued Angola resulting from the conflict between the National Union for the Total Independence of Angola (UNITA)^{lxxxv} and the Popular Movement for the Liberation of Angola (MPLA)^{lxxxvi} for control of the country. By the official end of this 27-year long war, it is estimated that 500,000 people were killed and tens of thousands more were displaced. During the course of the conflict, women were disproportionately impacted by the violence and fatally omitted from the peace process.

Forced conscription of male combatants left many women behind to become the heads of households.^{lxxxvii} Controlling military groups in villages would take advantage of these “deserted” women and would force the women to cohabitate with them against their will, later abandoning these women.^{lxxxviii} This process left children born on both sides of the conflict.^{lxxxix} These armed military combatants would also abduct young women and girls from villages, forcing them to become military wives and camp followers.^{xc} In an effort to protect these women, girls were married off earlier than usual.^{xcii} Plus women began breast feeding their children longer than necessary to ward off attacks.^{xcii}

The 2003 UN Special Rapporteur on Violence Against Women (SRVAW) reported serious attacks on women and rapes by government forces,^{xciii} as well as trafficking of women and girls to South Africa and the United Kingdom.^{xciv} UNICEF has estimated that 5,000 girls have been unable to return to their families and communities of origin because of these abduction, forced marriages, and pregnancies.^{xcv} Even after the civil war came to an official end, Angolan women still feared violence and sexual abuse in their everyday lives.^{xcvi} Specifically, displaced female heads of households fear repatriation in designated IDP camps, where cases of sexual abuses are widely reported.^{xcvii} Women are also concerned over the male combatants’ demobilization in the same camps as the displaced women, due to the close proximity to groups of male combatants that perpetrated human rights violations during the conflict.^{xcviii} Women and children disproportionately comprised the majority of mine-related amputees because DDR programs failed to de-mine rural areas and fields first.^{xcix} Moreover, Angolan women carry the unpaid burden of caring for both male and female mine victims and suffered from the destruction of the health care infrastructure and decimated economy.^c

Following the civil war, Angolan maternal and child mortality rates were the second highest in Africa, and a woman's life expectancy at birth was 41-years – one of the lowest in the world.^{ci} During the conflict, 70%-80% of the country's healthcare facilities were destroyed, resulting in high fertility, maternal, and child mortality rates, as well as an upsurge of home births.^{cii} While the HIV prevalence amongst women and girls in Angola is slightly low and stable right now, experts predict this number is expected to explode from the demobilization of combatants and the return of refugees from other countries.^{ciii} Additionally, an increasing number of women engage in prostitution.^{civ}

2. Peace Process – 2002 Cease-Fire Agreement

During the course of its 27-year civil war, Angola attempted to implement several failed peace agreements. The Lusaka Protocol peace accord^{cv} was intended to be a cease-fire agreement to replace the failed 1991 Bicesse Accord.^{cvi} This agreement did not last a year, before localized fighting broke out again. On April 4, 2002, after a failed installation of a national unity government in 1997, and UN sanctions imposed on the country later that year, the Angolan Armed Forces (FAA) signed a Memorandum of Understanding (MoU) to halt the fighting, and peace was formally declared.^{cvii}

Following the 2002 CFA, Angola's top priority was gathering UNITA troops into cantonment camps to begin the demobilization process.^{cviii} As an incentive for UNITA troops, the Angolan National Assembly approved a general amnesty law for military discipline infractions and crimes against state security forces during the conflict.^{cix} The Demobilization Process targeted only male combatants aged eighteen years or older, but the majority populations in the areas were women and children.^{cx} This exclusion of women made them invisible throughout the entire process; the negotiations did not address their special needs.^{cxii} Women were not treated as former combatants (their involvement in UNITA is a source of debate), nor were they treated as civilian displaced persons (because they often lived with former soldiers).^{cxiii} Thus, these women were not eligible for the same benefits as male ex-combatants. Exclusion policies such as this undermined the UN Security Council's intent to afford women and children special protections.^{cxiiii} The demobilization process also denied women training opportunities, access to micro-credit, and employment that the male ex-combatants received.^{cxv}

The Security Council emphasized the importance of developing a follow-up mission to Angola that would “facilitate[e] and coordinate[e] delivery of humanitarian assistance to vulnerable groups including internally displaced persons and families in quartering areas, with special concern for children and women.”^{cxv} Further, as per UNSCR 1325, the Security Council called on the Member States to ensure increased representation of women at all decision-making levels in national, regional, and international institutions.^{cxvi} Additionally, the Security Council urged that women should be part of the development of mechanisms to prevent, manage, and resolve conflict.^{cxvii}

On March 27, 2003, the Angolan Demobilization and Reintegration Program (ADRP) was instituted, which ensures that women identified as ex-combatants would receive the same benefits, aid, and training made available to male ex-combatants.^{cxviii} However, a problem with the ADRP is the discrepancy between the World Bank's estimate of female ex-UNITA combatants and the actual number.^{cxix} Many women were not categorized as soldiers during the conflict, but nonetheless had participated to some degree in the general warfare.^{cxx}

3. U.S. Role in 2002 Cease-Fire Agreement

Prior to Angola's 2002 Cease-Fire Agreement (CFA), the U.S. had been heavily involved in Angola's political situation by providing monetary support to UNITA and Savimbi, and by actively participating in the 1991 Peace Accords and the 1994 Lusaka Protocol. In fact, the 2002 CFA's Joint Commission troika (of which the U.S. was a party) was charged with ensuring Angola consolidated the peace in its country, achieved genuine democracy, protected its citizens' rights, and improved the lives of its people.^{cxxxi} Then Assistant Secretary for African Affairs, Walter H. Kansteiner, III, stressed the importance and strength of the Joint Commission by saying, "[w]e view the Joint Commission as a vital vehicle to help create the political framework that will enable the advent of multi-party democracy in Angola."^{cxxii} The Joint Commission should have used its powerful influence to create a political framework that would benefit all Angolans (especially women), not just members of the UNITA or MPLA parties.

The Joint Commission's mandate from the U.N. allowed the U.S. a huge opportunity to assert its influence into the 2002 CFA and implement UNSCR 1325. As a Troika member, the U.S. wielded great diplomatic power over the U.N., UNITA, and the MPLA. The U.S. should have used its influence to ensure that Angolan women were involved at every stage of both the decision-making and peace processes, as well as ensuring the protection and safety of women and girls from gender-based violence, rape, other forms of sexual abuse, and all forms of violence in repatriation camps post-conflict.

In fiscal year 2002, the U.S. was the largest bilateral donor to Angola, donating \$122 million in emergency assistance.^{cxxiii} In addition, the U.S. began implementing a fiscal strategy for the 2001-2005 periods, based on development, transitional, and emergency assistance.^{cxxiv} The U.S. also exerted additional influence over Angola, as Angola produced 5% of the U.S.'s oil needs.^{cxxv} With these amounts of money, the U.S. was in a position to leverage Angola to comply with the equality standards for women laid out in UNSCR 1325. After nearly three decades of civil war, Angola needed international financial assistance to rebuild its country and economy. However, the U.S. failed to ensure that special measures were taken to protect women and girls from gender-based violence, or to insist on safer precautions and structures at the repatriation camps for IDPS and refugees.

B. SUDAN

1. Conflict Background

The year before Sudan's independence in 1956, a civil war broke out between Arab and Muslim dominated Northern Sudan and African and Christian dominated Southern Sudan.^{cxxvi} The war lasted for 20 years before the parties signed the Comprehensive Peace Agreement on January 9, 2005.^{cxxvii} Stephen Morrison and Alex de Waal summed up the Sudanese conflict by stating that "Sudan's independent history has been dominated by chronic, exceptionally cruel warfare that has starkly divided the country on racial, religious, and regional grounds; displaced an estimated four million people (of a total estimated population of thirty-two million); and killed an estimated two million people."^{cxxviii} As then-Security Council President Joel Adechi acknowledged, the international community had a great responsibility and obligation to assist the Sudanese people and facilitate and support the peace process.^{cxxix}

In 2001, Amnesty International Report cited an increase of forced servitude of women and children.^{cxxx} Additionally, displaced and refugee women faced threats of sexual violence and abduction from their own family members, who wanted to marry them off for bride-wealth.^{cxxxi}

Sudanese women, many left behind or abandoned during the conflict, must shoulder disproportionate burdens in the country's traditional societies because of the country's conflict.^{cxxxii} There was also a great disparity exhibited in the school enrollment between males and females.^{cxxxiii} The enormous, negative demands placed on women and girls' shoulders adversely affected women's health and prohibited them from receiving an education.^{cxxxiv} In a 2002, UNIFEM commissioned study only 2 out of 106 students in a classroom were female.^{cxxxv}

In the Sudan, the majority of women's rights' violations resulted from the application of traditional practices and customary law that limit the choices women can make in their personal lives (e.g., underage marriage and marriage without a bride's consent).^{cxxxvi} In Southern Sudan, customary law usually does not allow women to inherit land.^{cxxxvii} Therefore, most displaced widows have an extremely hard time laying claim to their land and cattle when they return to Sudan.^{cxxxviii} Additionally, Southern Sudanese jails contain many women imprisoned because of dowry disputes – either to pressure the women into marrying or to use as a bargaining tool.^{cxxxix} Under customary law, men and families can also jail women for adultery, “illegal pregnancy,” and for seeking a divorce.^{cxli}

2. Peace Process – Nairobi Comprehensive Peace Agreement

Signed on January 9, 2005, President Clinton's special assistant on African affairs hailed the Comprehensive Peace Agreement (CPA) as being “gender neutral.”^{cxlii} However, this agreement revealed itself as anything but fair to women.^{cxlii} In reality, the CPA contained few provisions that protected or promoted women's rights. “In April 2004, the UN Terra Viva Journal quoted Hala Elkanib from the Strategic Initiatives for the Horn of Africa as saying, ‘So far there is no voice of women in the talks [between the Government of Sudan and the SPLM/A]. Women are not visible in whatever has been accomplished at the negotiations.’”^{cxliii} Moreover, no timelines, targets, or indicators for monitoring progress on women's inclusion were included in the CPA or other peace accords.^{cxliv}

In 2002-2003, the Intergovernmental Authority on Development (IGAD) sponsored the CPA and several earlier protocols, involving the Khartoum government along with the SPLM/A.^{cxlv} The Sudanese people, especially women, were not formerly included in these peace talks.^{cxlvi} This inattention to women is shocking, seeing as women make up 65% of the Sudan's population and 75% in the areas most affected by the Northern-Southern conflict.^{cxlvii} Moreover, women comprise the majority of IDPs and refugees in the country and abroad.^{cxlviii} Specifically, in Southern Sudan women head households and comprise the majority of the Southern agriculturists; yet, these women do not have legal access to land or resources due to discrimination in both the Sudanese Constitution and customary law.^{cxlix} Alternately, “[r]ape and other sexual violence were both a cause and a consequence of displacement”^{cl} Resettlement also creates special challenges for women, burdening them with becoming female heads of households, providing them little access to health care and education, and allowing very few economic opportunities.^{cli}

Before the CPA, six other major peace accords were drawn up to address peace in Northern-Southern Sudan, three of the most important ones being the Machakos Protocol (July 20, 2002), Protocol on Security Arrangements, and Power Sharing Protocol (May 26, 2004).^{clii} The Machakos Protocol made no mention of women's specific needs in its equality-sharing criteria.^{cliii} Moreover, the discussion of the differential impact of war was in terms of geography, not gender.^{cliv} The dearth of women involved in the Machakos Protocol was chalked up to women being excluded from discussions of decision-making fora and societal issues because decision-making is seen as a male preserve.^{clv} In the Protocol on Security Arrangements, gender needs had not been differentiated, even though the need was greater for it to be done.^{clvi} The Power Sharing Protocol did not create

quotas for women representatives in the Government of National Unity, but there were quotas for regional and political representatives.^{clvii} Additionally, there were no provisions for women members of the Joint National Transitional Team.^{clviii}

3. U.S. Role in Nairobi Comprehensive Peace Agreement

The Troika (United States, United Kingdom, and Norway) and IGAD Partners Forum had the leading role in facilitating the signing of the protocols essential for the completion of the CPA. The U.S.'s financial support of the CPA process was critical: the U.S. provided funding for the SPLM/A delegation to travel and other expenses, and the U.S. intervened to break stalemates – including during security arrangement talks and the three disputed areas.^{clix} While the U.S. has given a lot of money to the Sudan for economic recovery, development assistance, and education, it has not focused any attention on the plight of Sudanese women.^{clx}

One of the most egregious failings of the CPA, but not the DPA, is that the CPA does not provide accountability for gross abuses and war crimes that were committed during the war, such as sexual violence and abuses against women.^{clxi} The mediators and drafters of the CPA, the U.S. included, all ignored other constituencies and dimensions along which the government, combatants, and civilians should share power and wealth.^{clxii} The CPA negotiations only focused around an equitable share of power and resources premised around political forces and regional interests – not gender.^{clxiii}

Much like the U.S.'s reasons for getting involved in Afghanistan, its reasons for a policy change in the Sudan were based on the determination to combat alleged terrorist links and Islamist fundamentalism.^{clxiv} U.S. sanctions were still in place at the time and it was only reluctantly engaged.^{clxv} Also, like in Afghanistan, the U.S. showed itself willing to recruit former war lords during international peacekeeping activities to combat Islamist fundamentalism.^{clxvi} For most women in Islamic countries, life under these war lords is as oppressive and discriminatory as under Islamic fundamentalists.^{clxvii} However, the U.S. is willing to take this risk with women's lives to support anti-Islamic fundamentalists. This compromise by the U.S., women's rights for political gains, is at odds with the mandate and text of UNSCR 1325. Thus, the U.S. has failed to live up to its obligations under UNSCR 1325.

III. CONCLUSION

The U.S. has failed to meet UNSCR 1325's legal obligations by neglecting to enforce UNSCR 1325's articles, specifically articles ten and eleven, when the U.S. is involved in or influences post-conflict peace treaties, transitional governments, and reconstruction processes. The U.S. must support ending impunity and providing justice, and not allow other U.N. Member States to ignore and bargain around their obligations under UNSCR 1325. All Member States and parties to the conflict are obligated to include women's perspectives into post-conflict peace and reconstruction processes, and have an affirmative obligation to reach out to women in their countries and draw them into the peace talks and transitional governments. Countries should be prohibited from sacrificing or bargaining around women's rights; instead, including women should be a threshold issue in peace, post-conflict, and reconstruction processes. However, this idealistic notion is not the reality in most post-conflict and developing countries. Rather, as this paper has laid out, post-conflict countries are not effectively required or pressured by the U.S. or other Member States to include women significantly into their peace, post-conflict, and reconstruction processes.

Moreover, the U.S. needs to make radical changes to both its foreign and domestic policies to ensure protection and parity for women in the world. The U.S. can make strides to accomplish this by embracing the ICC, enacting domestic legislation that mirrors UNSCR 1325, and overturning both the Helms Amendment and the Global Gag Rule. The U.S. is a permanent member state of the U.N. Security Council, it was one of the unanimous votes for Resolution 1325, and is therefore obligated and required to recall and affirm UNSCR 1325 in every post-conflict peace and reconstruction process it is involved in. Furthermore, the U.S. needs to shoulder the responsibility of its prominent donor status and set a better international policy standard for other countries to admire and emulate. However, the U.S.'s perpetual failing to fulfill these obligations highlights a systematic failing in the successful implementation of UNSCR 1325.^{clxviii}

ⁱ PeaceWomen, *United Nations Security Resolution 1325 on Women, Peace and Security* (2000), available at <http://www.peacewomen.org/un/sc/1325.html>.

ⁱⁱ *Id.*

ⁱⁱⁱ Human Rights Watch, *International Justice for Women: The ICC Marks a New Era*, Human Rights Watch Backgrounder (July 1, 2002), available at <http://www.hrw.org/campaigns/icc/icc-women.htm>.

^{iv} The Rome Statute criminalized sexual and gender violence as crimes against humanity and war crimes. *Id.*

^v *Id.*

^{vi} *See id.*

^{vii} “[F]orces repeatedly attacked women in their homes, while they were working in the fields, near military camps, and during searches of homes. Rapes by government forces were report Women, many as young as 13 years of age, were recruited forcibly to serve as porters and camp followers, and attacks of sexual assault were widespread.” United Nations Commission on Human Rights, *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women*, Economic and Social Council, 23 (Feb. 27, 2003).

^{viii} *Id.*

^{ix} United Nations Commission on Human Rights, *supra* note 53.

^x *See* Human Rights Watch, *Struggling Through Peace: Return and Resettlement in Angola*, v. 15, no. 16(A) (Aug. 2003), <http://www.hrw.org/reports/2003/angola0803/angola0803.pdf>.

^{xi} Walter H. Kansteiner, III, Assistant Secretary for African Affairs, *Africa’s Weak States: U.S. Policy Options in Angola*, Testimony Before the Senate Committee on Foreign Relations Subcommittee on African Affairs (Oct. 16, 2002), available at <http://www.state.gov/p/af/rls/rm/14458.htm>.

^{xii} *See* Human Rights Watch, *The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan*, number 1, 4 (Mar. 2006), <http://hrw.org/backgroundunder/africa/sudan0306/sudan0306.pdf>.

^{xiii} United Nations Security Council, *Sudan Peace Agreement Signed 9 January Historic Opportunity, Security Council Told*, Press Release, SC/8306 (2005), available at <http://www.un.org/News/Press/docs/2005/sc8306.doc.htm>, [hereinafter the Sudanese Press Release].

^{xiv} The number increase varies from 5,000 to 100,000 women and children. Amnesty International, *Sudan*, 2001 Report (2001), available at <http://web.amnesty.org/web/ar2001.nsf/webafrcountries/SUDAN?OpenDocument>.

^{xv} United Nations Office for the Coordination of Humanitarian Affairs – Integrated Regional Information Networks [hereinafter IRIN], *Sudan: Focus on Women and War* (Nov. 12, 2002), available at <http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/271380af2321c613c1256c6f004bb64e>.

^{xvi} IRIN, *Sudan: Special Report on Women in the South* (Aug. 20, 2003), available at <http://www.irinnews.org/report.aspx?reportid=45597>.

^{xvii} Donald Steinberg, International Crisis Group, *Failure to Empower Women Peacebuilders: A Cautionary Tale from Angola*, PeaceWomen E-News (Apr. 25, 2007), available at <http://www.crisisgroup.org/home/index.cfm?id=4794>.

^{xviii} The CPA served as a foundation for the Darfur Peace Agreement (DPA), signed on May 5, 2006. The Sudanese government recognized the gender failing of the CPA and implemented more gender sensitive language into the DPA.

^{xix} Ted Dagne, *Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy*, CRS Issue Brief for Congress, 14 (Apr. 12, 2006), <http://www.fas.org/sgp/crs/row/IB98043.pdf>.

^{xx} *Id.* at 9-10.

^{xxi} Anne Itto, *Guests at the Table? The Role of Women in the Peace Process*, Conciliation Resources (2006), available at <http://www.c-r.org/our-work/accord/sudan/women.php>.

^{xxii} *Id.*

^{xxiii} PeaceWomen, *United Nations Security Resolution 1325 on Women, Peace and Security* (2000), available at <http://www.peacewomen.org/un/sc/1325.html>.

^{xxiv} United Nations Development Fund for Women (hereinafter, UNIFEM), *Security Council Resolution 1325 – A Toolbox*, WomenWarPeace.org (last visited on July 16, 2007), available at <http://www.womenwarpeace.org/toolbox/toolbox.htm>.

^{xxv} *Id.*

^{xxvi} United Nations Security Resolution 1325 on Women, Peace and Security, S/Res/1325 (Oct. 31, 2000), http://www.un.org/events/res_1325e.pdf. UNSCR 1325 contains 18 points for Member States to adhere to concerning the role of women in post-conflict peace processes.

^{xxvii} UNIFEM, *supra* note 2.

^{xxviii} United Nations, General Assembly, *Women and Peace and Security: Report of the Secretary-General*, s/2004/814 (Oct. 13, 2004), available at <http://domino.un.org/UNISPAL.NSF/85255db800470aa485255d8b004e349a/7bd117ba5d0552d685256f32006e5143!OpenDocument>.

^{xxix} *Id.*

^{xxx} Art. 25, Charter of the United Nations (June 26, 1945), available at <http://www.yale.edu/lawweb/avalon/un/unchart.htm>.

^{xxxi} The U.N. Security Council is comprised of 15 member countries, five permanent and 10 that rotate. The five permanent countries, including the U.S. are China, France, the Russian Federation, and the United Kingdom. The other 10 U.N. Security

Council members during passage of this resolution were Argentina, Bangladesh, Canada, Jamaica, Malaysia, Mali, Namibia, the Netherlands, Tunisia, and the Ukraine.

^{xxxii} These include the Geneva Convention, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention of the Rights of the Child (CRC), Refugee Convention, Windhoek Declaration and Namibian Plan of Action on Gender Mainstreaming, and the Outcome Document of the 23rd Special Session of the UN General Assembly. Christy Fujio, *From Soft to Hard Law: Moving Resolution 1325 on Women, Peace and Security Across the Spectrum*, ExpressO, 6-7 (2007), available at http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=christy_fujio.

^{xxxiii} *Id.* at 7-8.

^{xxxiv} *Id.* at 8 (quoting NGO Working Group on Women Peace and Security, *From Local to Global: Making Peace Work for Women - Security Council Resolution 1325 Five Years On Report*, 2 (Oct. 2005).

^{xxxv} *Id.*; see U.N. Charter Art. 25.

^{xxxvi} *Id.*; see also U.N. SCOR Res. 1325.

^{xxxvii} Amnesty International, *Fourth Anniversary of Security Council Resolution 1325*, News Amnesty (Oct. 28, 2004), available at <http://news.amnesty.org/index/ENGEUR01520420042004>.

^{xxxviii} The UK NAP covers such varied topics as gender justice (including gender-based violence); UK support to the U.N.; disarmament, demobilization, and reintegration (DDR); training and policy within HMG; and working with NGOs.

^{xxxix} Additionally, the bill featured eleven Congressional co-sponsors: Rep. Shelley Berkley [D-NV]; Rep. Howard Berman [D-CA]; Rep. Julia Carson [D-IN]; Rep. Sam Farr [D-CA]; Rep. Barbara Lee [D-CA]; Rep. Carolyn Maloney [D-NY]; Rep. Juanita Millender-McDonald [D-CA]; Del. Eleanor Norton [D-DC]; Rep. José Serrano [D-NY]; Rep. Louise Slaughter [D-NY]; and Diane E. Watson [D-CA].

^{xl} 108th Congress, H. Res. 432 (2003).

^{xli} *Id.*

^{xlii} 110th Congress, H. Res. 146 (2007).

^{xliii} This referral was the last Congressional action taken on the bill, on April 17, 2007.

^{xliv} GovTrack.us., *H. Res. 146--110th Congress (2007): Expressing the sense of the House of Representatives that the United States should take...*, GovTrack.us (database of federal legislation), available at <http://www.govtrack.us/congress/bill.xpd?bill=hr110-146> (last visited July 31, 2007).

^{xlv} The ICC is a judicial venue to try individuals accused of genocide, crimes against humanity, and war crimes. The ICC may investigate and prosecute these crimes, and only outranks existing judicial systems if national courts are unable or unwilling to handle these crimes. Additionally, the ICC provides recourse to justice for individuals who traditionally have had little opportunity to defend their rights.

^{xlvi} Even though President Clinton signed onto the ICC treaty immediately before leaving office, President Bush considered his withdrawal from it as effectively neutralizing the U.S.'s commitment to the ICC.

^{xlvii} The Rome Statute is the treaty that established the ICC, setting out the court's jurisdiction, structure and functions. As of July 17, 2007, 105 countries have ratified the Rome Statute. The U.S. is the only NATO member, besides Turkey, not expected to join the ICC, and the only democratic country in the world to actively oppose its creation. See Human Rights Watch, *Questions and Answers About the ICC and the United States*, The International Criminal Court (2003), available at <http://www.hrw.org/campaigns/icc/usqna.htm>.

^{xlviii} The U.S. was one of seven nations to vote against the Rome Statute in 1998, joining China, Iraq, Israel, Libya, Qatar, and Yemen.

^{xlix} Human Rights Watch, *The United States and the International Criminal Court*, International Justice (2003), available at <http://www.hrw.org/campaigns/icc/us.htm>.

^l BBC News, *US Renounces World Court Treaty* (May 6, 2002), available at

<http://news.bbc.co.uk/1/hi/world/americas/1970312.stm>. According to Kenneth Roth from Human Rights Watch, "Unsigning the treaty will throw the United States into opposition against the most important new institution for enforcing human rights in 50 years. *Id.*

^{li} Human Rights Watch, *International Justice for Women: The ICC Marks a New Era*, Human Rights Watch Backgrounder (July 1, 2002), available at <http://www.hrw.org/campaigns/icc/icc-women.htm>.

^{lii} The Rome Statute criminalized sexual and gender violence as crimes against humanity and war crimes. *Id.*

^{liii} *Id.*

^{liv} Crimes against humanity and war crimes are intended to include the following gender and/or sexual crimes: rape, enforced prostitution, sexual slavery (which includes trafficking), enforced sterilization, forced pregnancy, persecution on account of gender, and other serious sexual violence. *Id.*

^{lv} The ICC's Statute and Rules of Procedure and Evidence (hereinafter Rules) requires the court to "protect the safety, physical and psychological well-being, dignity, and privacy of victims and witnesses," paying special attention to gender and the nature of the crime (whether or not it included gender or sexual violence). *Id.* The Rules creates a Victims and Witnesses protection unit, protects victims and witnesses during pre-trial and trial proceedings, and dictates the question of witnesses to avoid harassment or intimidation issues. *Id.*

^{lvi} The Rules prohibit entering evidence of a victim or witness's sexual history or conduct, as well as corroborating testimony of sexual violence. Human Rights Watch, *supra* note 25. Furthermore, the Rules outlines specific guidelines and procedures for handling gender and sexual violence evidence. *Id.*

- ^{lvii} The Rules requires the Victims and Witnesses Unit to be located within the ICC registry, and requires an ICC prosecutor to appoint legal advisers on gender and sexual violence. *Id.*
- ^{lviii} The Rules facilitates the direct participation of victims, thus allowing for silenced women to finally allow their voices to be heard. *Id.*
- ^{lix} *Id.*
- ^{lx} Human Rights Watch, *supra* note 20.
- ^{lxi} Marjorie Cohn, *How the Bush Administration's Opposition to the International Criminal Court Has Put Peacekeepers and Others in Danger*, CommonDreams.org (Sept. 9, 2003)
- ^{lxii} Human Rights Watch, *supra* note 20.
- ^{lxiii} *Id.*
- ^{lxiv} Marjorie Cohn, *supra* note 23.
- ^{lxv} Human Rights Watch, *supra* note 20.
- ^{lxvi} Congress passed the ASPA as it was signed into law by President Bush on August 3, 2002.
- ^{lxvii} Human Rights Watch, *supra* note 20.
- ^{lxviii} *Id.*
- ^{lxix} The Helms Amendment is a 1973 amendment to the Foreign Assistance Act, which prohibited the use of U.S. funds for abortion services.
- ^{lxx} Introduced by then-President Reagan at the 1993 International Conference for Population in Mexico City, the Global Gag Rule “denies foreign organizations receiving U.S. family planning assistance the right to use their own non-U.S. funds to provide legal abortion, counsel or refer for abortion, or lobby for the legalization of abortion in their country.” Population Action International [hereinafter PAI], *How the Global Gag Rule Undermines U.S. Foreign Policy & Harms Women's Health*, Fact Sheet, 1 (June 2004), http://66.39.133.128/resources/factsheets/FS5_GGR_final.pdf.
- ^{lxxi} *See id.*
- ^{lxxii} Ms. Magazine, *U.N. Court Issues First Ruling on Rape as War Crime*, Feminist Wire Daily Newsbriefs (Feb. 23, 2001), available at <http://www.msmagazine.com/news/uswirestory.asp?id=5292>.
- ^{lxxiii} *Id.*
- ^{lxxiv} *Id.*
- ^{lxxv} *Id.*
- ^{lxxvi} The Sudan is not a Member State; thus, the Security Council must vote on a resolution to refer them to the ICC.
- ^{lxxvii} *See* Nicholas D. Kristof, *Why Should We Shield the Killers?*, The New York Times (Feb. 2, 2005), available at <http://www.globalpolicy.org/intljustice/icc/2005/0202shieldkillers.htm>.
- ^{lxxviii} Ted Dagne, *supra* note 118, at 8.
- ^{lxxix} Nicholas D. Kristof, *supra* note 67.
- ^{lxxx} Nikola Krastev, *UN: Security Council Urges Integrating Women Into Peace, Security Issues*, RadioFreeEurope/RadioLiberty (Oct. 27, 2006), available at <http://www.rferl.org/featuresarticle/2006/10/4af2c46e-ce5d-4c94-a855-72d27949847b.html>.
- ^{lxxxi} *Id.*
- ^{lxxxii} Kumi Samuel, *Women's Agency in Peace Making Within the Context of Democracy and Citizenship – the Case of Sri Lanka*, Development Alternatives With Women For a New Era, 1 (Mar. 12, 2007).
- ^{lxxxiii} *Id.*
- ^{lxxxiv} *Id.*
- ^{lxxxv} UNITA began as a political party, originally borne from the anti-colonial movement against Portugal. After Angola received its independence in 1975, UNITA became a rebel, military force. UNITA started with Maoist influences, fighting for rural rights and recognized ethnic divisions (most likely influence by UNITA founder Jonas Savimbi's early training in China). In later years, after U.S. support began, UNITA began espousing American ideas, at least rhetorically, about democracy and free market political and economic change for Angola.
- ^{lxxxvi} MPLA was a political party from Angola's Marxist regime, which has ruled the country since its 1975 independence from Portugal.
- ^{lxxxvii} UNIFEM, *Country Profiles, Reports and Fact Sheets on Angola*, WomenWarPeace.org (site last visited Aug. 6, 2007), available at <http://www.womenwarpeace.org/angola/angola.htm>.
- ^{lxxxviii} *Id.*
- ^{lxxxix} *Id.*
- ^{xc} *Id.*
- ^{xcⁱ} *Id.*
- ^{xcⁱⁱ} *Id.*
- ^{xcⁱⁱⁱ} “[F]orces repeatedly attacked women in their homes, while they were working in the fields, near military camps, and during searches of homes. Rapes by government forces were report Women, many as young as 13 years of age, were recruited forcibly to serve as porters and camp followers, and attacks of sexual assault were widespread.” United Nations Commission on Human Rights, *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women*, Economic and Social Council, 23 (Feb. 27, 2003).
- ^{xc^{iv}} *Id.*
- ^{xc^v} United Nations Commission on Human Rights, *supra* note 53.

^{xcvi} See Human Rights Watch, *Struggling Through Peace: Return and Resettlement in Angola*, v. 15, no. 16(A) (Aug. 2003), <http://www.hrw.org/reports/2003/angola0803/angola0803.pdf>.

^{xcvii} *Id.* at 13-14.

^{xcviii} *Id.*

^{xcix} UNIFEM, *supra* note 47.

^c *Id.*

^{ci} World Health Organization [hereinafter WHO], *Angola*, Statistics (2005), available at <http://www.who.int/countries/ago/en/>.

^{cii} UNIFEM, *supra* note 47.

^{ciii} *Id.*

^{civ} To highlight this, in 2000 USAID found that 76% of workers in the informal economy were women, while 73% of workers in formal economy were men. *Id.*

^{cv} Brokered in Lusaka, Zambia on November 20, 1994.

^{cvi} The Bicesse Accord was signed between 18 African nations and Portugal in 1991 to provide an electoral process for a democratic Angola under the United Nations' supervision. When UNITA's founder and leader Savimbi failed to win the first democratic election, he called the process fraudulent and plunged the country back into civil war.

^{cvii} *Struggling Through Peace*, *supra* note 55, at 9.

^{cviii} Human Rights Watch, *World Report 2003: Angola* (2003), available at <http://www.hrw.org/wr2k3/africa1.html>.

^{cix} However, then U.N. Under-Secretary-General unequivocally stated a reservation that this amnesty memorandum did not pertain to genocide, war crimes, or crimes against humanity. *Id.*

^{cx} *Struggling Through Peace*, *supra* note 55, at 27.

^{cxii} *Id.*

^{cxiii} *Id.*

^{cxiii} *Id.* at 28.

^{cxiv} *Id.* at 29.

^{cxv} See United Nations Security Council Resolution 1433, SC/Res/1433 (2002), (3) (B) (3) (Aug. 15, 2002), <http://daccessdds.un.org/doc/UNDOC/GEN/N02/526/59/PDF/N0252659.pdf?OpenElement>.

^{cxvi} See UNSCR 1325 (1).

^{cxvii} *Id.*

^{cxviii} *Struggling Through Peace*, *supra* note 55, at 28.

^{cxix} *Id.*

^{cxix} For instance, these women were involved in administered controlled areas; cooked; maintained military units; transported supplies, ammunition, and weapons; and completed preliminary surveillance of UNITA targeted areas. Additionally, some of the women who participated in these activities received military ranks in UNITA (for administrative tasks, rather than field operations). *Id.*

^{cxxi} Walter H. Kansteiner, III, Assistant Secretary for African Affairs, *Africa's Weak States: U.S. Policy Options in Angola*, Testimony Before the Senate Committee on Foreign Relations Subcommittee on African Affairs (Oct. 16, 2002), available at <http://www.state.gov/p/af/rls/rm/14458.htm>.

^{cxixii} Kansteiner, *supra* note 80.

^{cxixiii} *World Report 2003*, *supra* note 67.

^{cxixiv} For this five-year period, the U.S. earmarked \$73 million. *Id.*

^{cxixv} This number was expected to triple within the next ten years. Human Rights Watch, *World Report 2003: Angola* (site last visited on July 13, 2007), available at <http://www.hrw.org/wr2k3/africa1.html>. See also Wayne Madsen, Special to CorpWatch, *Report Alleges U.S. Role in Angola Arms-for-Oil Scandal*, CorpWatch (May 17, 2002), available at <http://www.corpwatch.org/article.php?id=2576>.

^{cxixvi} See Human Rights Watch, *The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan*, number 1, 4 (Mar. 2006), <http://hrw.org/backgrounders/africa/sudan0306/sudan0306.pdf>.

^{cxixvii} United Nations Security Council, *Sudan Peace Agreement Signed 9 January Historic Opportunity*, Security Council Told, Press Release, SC/8306 (2005), available at <http://www.un.org/News/Press/docs/2005/sc8306.doc.htm>, [hereinafter the Sudanese Press Release].

^{cxixviii} Stephen J. Morrison & Alex de Waal, *Grasping the Nettle: Analyzing Cases of Intractable Conflict, Can Sudan Escape Its Intractability?* United States Institute of Peace, 162 (2005).

^{cxixix} Sudanese Press Release, *supra* note 85.

^{cxixxx} The number increase varies from 5,000 to 100,000 women and children. Amnesty International, *Sudan*, 2001 Report (2001), available at <http://web.amnesty.org/web/ar2001.nsf/webafrcountries/SUDAN?OpenDocument>.

^{cxixxi} United Nations Office for the Coordination of Humanitarian Affairs – Integrated Regional Information Networks [hereinafter IRIN], *Sudan: Focus on Women and War* (Nov. 12, 2002), available at <http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/271380af2321c613c1256c6f004bb64e>.

^{cxixxii} IRIN, *Sudan: Special Report on Women in the South* (Aug. 20, 2003), available at <http://www.irinnews.org/report.aspx?reportid=45597>.

^{cxixxiii} *Id.*

^{cxixxiv} *Sudan: Focus on Women and War*, *supra* note 89.

- ^{cxv} UNIFEM, *Sudan: Country Page*, WomenWarPeace.org (June 29, 2005), available at <http://www.womenwarpeace.org/sudan/sudanideshow.htm>.
- ^{cxvii} *The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan*, *supra* note 85, at 21.
- ^{cxviii} IRIN, *Sudan: Special Report on the Impact of a Future Peace Agreement on Sudan's Refugees and Displaced*, Women's Predicament (Nov. 11, 2003), available at <http://www.irinnews.org/report.aspx?reportid=47172>.
- ^{cxviii} *Id.*
- ^{cxvix} *The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan*, *supra* note 85, at 21.
- ^{cxl} *Id.* at 22.
- ^{cxli} Donald Steinberg, International Crisis Group, *Failure to Empower Women Peacebuilders: A Cautionary Tale from Angola*, PeaceWomen E-News (Apr. 25, 2007), available at <http://www.crisisgroup.org/home/index.cfm?id=4794>.
- ^{cxlii} The CPA served as a foundation for the Darfur Peace Agreement (DPA), signed on May 5, 2006. The Sudanese government recognized the gender failing of the CPA and implemented more gender sensitive language into the DPA.
- ^{cxliii} UN Terra Viva Journal, Hala Elkanib quote, Sudan Country Profile, WomenWarPeace.org (site last visited on June 20, 2007), available at <http://www.womenwarpeace.org/sudan/sudan.htm>.
- ^{cxliv} International Crisis Group, *Beyond Victimhood: Women's Peacebuilding in Sudan, Congo and Uganda*, Africa Report no. 112, 9 (June 28, 2006), http://www.peacewomen.org/resources/1325/PDF/beyond_victimhood_PB.pdf.
- ^{cxlv} IRIN, *Sudan: Final Peace Pact to Be Signed in Nairobi on Sunday* (Jan. 4, 2005), available at <http://www.irinnews.org/report.aspx?reportid=52565>.
- ^{cxlvi} Joyce Mulama, Inter Press Service News Agency, *Women Demand Place at the Negotiating Table* (Apr. 9, 2003).
- ^{cxlvii} The Initiative for Inclusive Security, *Sudanese Women Mobilize for Peace: Uniting of Sudanese Women in Advance of Peace Agreement Anniversary*, Program of Hunt Alternatives Fund (Nov. 8, 2006), http://www.huntalternatives.org/download/156_sudan_11_8_06.pdf.
- ^{cxlviii} See Women's Commission for Refugee Women & Children, *Only Through Peace: Hope for Breaking the Cycle of Famine and War in Sudan*, 21 (Sept. 1999), <http://www.womenscommission.org/pdf/sd.pdf>.
- ^{cxlix} Rogaia Abusharaf, *Sudanese Women Waging Peace*, Inclusive Security: Women Waging Peace convention (Nov. 2004), available at <http://www.fmreview.org/text/FMR/24/24.htm>.
- ^{cl} United Nations Commission on Human Rights, Economic and Social Council, *Report of the Representative of the Secretary-General on Internally Displaced Persons*, Commission on Human Rights Resolution 2002/56 (Nov. 25, 2002), available at <http://www.hri.ca/fortherecord2003/documentation/commission/e-cn4-2003-86-add6.htm>.
- ^{cli} Inclusive Security: Women Waging Peace, *Implementing Peace in Sudan*, 5 (site last visited Aug. 7, 2007), http://www.huntalternatives.org/download/56_implementingpeaceinsudan.pdf.
- ^{clii} Lutheran World Federation – Department for World Service, *The Comprehensive Peace Agreement: A Summary Booklet*, Kenya (site last visited Aug. 7, 2007), available at http://www.lwfkenyasudan.org/Comprehensive_Peace_Agreement.htm.
- ^{cliii} *Beyond Victimhood*, *supra* note 103.
- ^{cliv} *Id.*
- ^{clv} *Id.*
- ^{clvi} *Id.*
- ^{clvii} *Id.* at 9-10.
- ^{clviii} *Id.* at 10.
- ^{clix} Ted Dagne, *Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy*, CRS Issue Brief for Congress, 14 (Apr. 12, 2006), <http://www.fas.org/sgp/crs/row/IB98043.pdf>.
- ^{clx} *Id.* at 9-10.
- ^{clxi} *The Impact of the Comprehensive Peace Agreement and the New Government of National Unity on Southern Sudan*, *supra* note 85, at 16.
- ^{clxii} Anne Itto, *Guests at the Table? The Role of Women in the Peace Process*, Conciliation Resources (2006), available at <http://www.c-r.org/our-work/accord/sudan/women.php>.
- ^{clxiii} *Id.*
- ^{clxiv} Lina Abirafeh, *From Afghanistan to Sudan: How Peace Risks Marginalizing Women*, Forced Migration Review (site last visited Aug. 7, 2007), available at <http://www.fmreview.org/text/FMR/24/25.htm>.
- ^{clxv} *Id.*
- ^{clxvi} *Id.*
- ^{clxvii} *Id.*
- ^{clxviii} For example, in a 2005 UNIFEM study, it was found that out of 70 adopted resolutions, only six recalled or affirmed UNSCR 1325; this is only 10% of all adopted resolutions.