



Recommendations for United States National Action Plan (NAP) on United Nations Security Council Resolution 1325 November 2011

Background

Overview

In July 2011, the Center for Human Rights & Global Justice at New York University School of Law (www.chrgj.org) released its 163-page report, *A Decade Lost: Locating Gender in U.S. Counter-Terrorism*¹ examining the gender dimensions and impacts of U.S. counter-terrorism policies domestically and abroad (e.g., in Afghanistan, Iraq, Pakistan, Yemen, OPT, Israel, Lebanon, Somalia, Kenya, Nepal, and the Philippines). *A Decade Lost* makes specific recommendations to successfully integrate a gender and human rights perspective into six areas of U.S. counter-terrorism—development, militarized counter-terrorism, anti-terrorism financing, intelligence and law enforcement, border securitization and immigration, and diplomacy and strategic communications—and provides measurement tools to evaluate counter-terrorism efforts in terms of both gender impacts and efficacy.

Methodology

A Decade Lost represents the culmination of over three years of research, including regional stakeholder workshops with civil society in the United States, Africa, Asia, and the Middle East and North Africa; scores of interviews with U.S. government (USG) officials (in Washington D.C. and in the field, including the Department of State, Department of Defense, U.S. Agency for International Development, Department of Homeland Security, Department of the Treasury and Department of Justice), foreign government officials (in particular the U.K. government with regard to its counter-terrorism strategy, *Prevent*), USG implementing partners, inter-governmental entities (including the U.N.), community advocates, non-governmental organizations and academics; and extensive secondary research in English, Arabic, and French.

Key Findings for the U.S. NAP on UNSCR 1325

While the USG has emphasized the link between women's rights and national security, *A Decade Lost* identifies that in practice there has been a failure to take account of gender in counter-terrorism efforts, in many cases cutting against both counter-terrorism and gender equality goals and frustrating UNSCR 1325 imperatives.

¹ CHR&GJ, *A Decade Lost: Locating Gender in U.S. Counter-Terrorism* (2011), available at <http://www.chrgj.org/projects/docs/locatinggender.pdf>.

In light of the conflict-nexus of UNSCR 1325 and its emphasis on participation, protection, and relief and recovery, the following select findings are of particular relevance for the U.S. NAP on UNSCR 1325:

- Increased U.S. military engagements, security assistance and civil-military co-operation to achieve counter-terrorism or counter-insurgency objectives in both kinetic (e.g., Iraq and Afghanistan) and non-kinetic (e.g., Kenya) environments have: i) created situations involving multiple vulnerabilities for women and girls (e.g., increased insecurity to trafficking); ii) undermined de-militarization efforts by local gender advocates; and iii) resulted in gender-blind development (e.g., failure to consult women in activities) and development assistance to counter violent extremism that passes over women and girls to fund education and livelihood programs for male youth thought to be vulnerable to terrorist recruitment.
- Civil society working on gender equality (including in conflict-affected areas) has been:
 - squeezed between the USG and extremists by counter-terrorism actions, including where such actions have increased Islamophobia and used an “us-versus-them” narrative with gender equality at its fulcrum;
 - adversely impacted by anti-terrorism financing regulations geared toward recognizing established organizations with verifiable track records capable of absorbing rigorous auditing and reporting procedures in ways that exclude women’s organizations who are often new, small, and working below the radar because of local safety concerns;
 - endangered and undermined where anti-terrorism financing rules require detailed background checks and storing of information on grantees, where women’s rights programming is seen as a Western agenda, and/or where there is, or is perceived to be, any form of affiliation with the USG;
 - weakened by gendered bartering, meaning both the bartering of the rights of women to appease terrorist groups, and the privileging of counter-terrorism relationships with coercive governments over their poor human rights record; and
 - skeptical about whether the USG’s current link between women and national security is genuine; concerned that women’s empowerment and women’s movements would be valued only to the extent that they could help achieve national security objectives; and critical of the use of harmful stereotypes about Muslim women (e.g., as passive, subordinate, moderate, and maternal) and Muslim men (e.g., as misogynistic, and particularly homophobic) that have informed counter-terrorism efforts to date.
- Relief and recovery efforts have been hampered by anti-terrorism financing laws with disproportionate impacts on women and girls: for example, while the USG has drastically cut humanitarian aid to Somalia out of fear that the money will be diverted to Al-Shabaab, these anti-terror funding cuts ultimately punish women and girls. This is because gender vulnerabilities mean that women and girls bear the burden of humanitarian crisis and cutting government aid has made women and girls reliant on Al-Shabaab for food distribution.
- While the USG’s efforts to promote women’s involvement in military and national security efforts, including through Female Engagement Teams (FETs) in Iraq and Afghanistan, reflect its increased attention to gender dynamics in military operations to counter terrorism, there is still a need to ensure that FETs (and similar initiatives) receive gender-sensitive guidance to avoid endangering women in local communities; base engagements and programs on adequate advance consultation with women in those communities; and conduct a gender analysis prior to engagement to assess whether outreach to women will create additional burdens or undermine local movements.

A Decade Lost outlines these gender impacts with a view to guaranteeing they are redressed and not repeated and to ensure that the USG develops and implements its NAP for UNSCR 1325 based on a full understanding of its operational context.

Recommendations for U.S. NAP on UNSCR 1325

Drawing on *A Decade Lost* and a survey of NAPs of other similarly situated governments, CHRGGJ recommends the following to inform the development of the U.S. NAP on UNSCR 1325 and its five identified objectives,² as well as individual agencies' implementation plans:

Objective One: Implement and institutionalize a gender-sensitive approach to peace and security

- **Rationale:** Emphasize the human rights and gender equality imperative for adopting a gender-sensitive approach to peace and security in order to demonstrate the USG's genuine commitment to gender equality and help mobilize participation of women's groups. (See e.g., Sweden Revised NAP (2009): "[t]he implementation of Resolution 1325 contributes to achieving aims within foreign, security, development and defence policy, but also gender equality policy" (Foreword at 3)).
- **Scope/definition:** Recognize that consistent with USAID's definition³ of gender as a "social construct," a gender-sensitive approach requires the USG to consider "the economic, political, and socio-cultural attributes, constraints, and opportunities associated with being male or female;" "investigate" rather than "assume" gender roles; and reflect that "'gender' is not interchangeable with 'women' or 'sex.'" This means, for example, ensuring that reintegration schemes do not rely on gender stereotypes of women as victims to exclude them from benefits provided to male ex-combatants.
- **Monitoring and evaluation:** Require systematic monitoring and reporting on all activities that implicate UNSCR 1325, including through requiring gender-sensitive indicators and gender-disaggregated data for all operations and in the monitoring and evaluation of the NAP itself. (See e.g., Sweden Revised NAP (2009): "[t]he agencies are tasked with preparing gender-disaggregated statistics for all operations and reporting annually on these statistics" (Efforts at National Level at 12); e.g., Belgium NAP (2009): "[e]mphasize that collecting relevant gender data is part of each peace mission" (Peacekeeping Missions at 18); and e.g., U.K. NAP (2010): "[t]he Plan needed to be able to measure the activity carried out in order to be accountable and a clear process established for reporting progress to Civil Society and Parliament" (Revision of the UK NAP at 47)).
- **Training and awareness-raising:** Incorporate gender-sensitive and specialist trainings for USG and other personnel, including all-female teams, such as on how to engage with communities in ways that ensure that engagement itself does not constitute a threat to the local communities. (See e.g., U.K. NAP (2010): "[r]aising awareness of Women Peace and Security across [government] and providing specialist training where necessary" including that "[s]tabilisation training course includes session on engaging with communities and with men/women" (National Action: Training at 11); and e.g., Canada NAP (2010): "[i]mproving the capacity of Canadian personnel to help prevent violence and to contribute to protecting the human rights of women and girls" (Objectives at 5), and "[s]ystematically include modules on women, peace and security, including...cultural awareness...in all Canadian training for military,

² Based on United States National Action Plan on Women, Peace, and Security, Civil Society Consultation, Oct. 31, 2011 (on file with CHRGGJ).

³ See Glossary of ADS Terms, U.S. Agency for Int'l Dev. 112 (2010) <http://www.usaid.gov/policy/ads/glossary.pdf>.

police and civilian personnel being deployed operationally, in a manner which addresses any differential impact of armed conflict on women and girls” (Actions and Indicators: Prevention at 6)).

Objective Two: Strengthen participation in peace processes and decision-making

- **Consultation:** Ensure effective, meaningful and local participation informed by the principle of gender equality to guarantee that USG policy reflects the needs and priorities of local women, including by systematizing and monitoring the USG’s consultative and capacity-building activities (e.g., recipients of grants, training and other activities) to ensure a wide spectrum of organizations and issues are represented. (See e.g., U.K. NAP (2010): “[c]ontinue to host and meet Afghan women’s organisations and networks at the Embassy in order to ensure that UK policy reflects the needs and priorities of Afghan women” (Afghanistan: Participation at 22); and e.g., Belgium NAP (2009): “[s]ystematize consultations with women and women’s organisations in fact-finding missions, with the focus on local women’s groups, and spread this information” (Peacekeeping Missions at 19)).
- **Address barriers to participation:** Identify and address barriers to participation, including by ensuring that anti-terrorism financing rules do not impede the ability of women and women’s organizations to participate in peace processes, reform processes and other decision-making processes. (See e.g., Canada NAP (2010): “[e]ncourage the active and meaningful participation of women in decision making and in deployments for peace operations, including by identifying and addressing barriers to full participation” (Actions and Indicators: Participation and Representation at 7)).
- **Protection as participation:** Anticipate and respond to the fact that as a result of either the appearance or reality of consulting with the USG, women and women’s groups may experience gender-specific security concerns, including increased targeting from armed groups. (See e.g., Sweden Revised NAP (2009): “[p]rotecting women and girls, not least against sexual violence, enables more women to participate actively in peace processes and conflict prevention efforts” (Introduction at 4)).
- **Reform processes and capacity building:** Ensure a gender-sensitive approach to justice, law enforcement, security sector, and other reform and/or capacity building processes, including by ensuring that national security institutions include women and effectively respond to female victims of terrorism. (See e.g., Belgium NAP (2009): “Belgium emphasizes the importance of the gender dimension in the Security Sector Reform” (Conflict Prevention and Peace Building at 13) and “[p]romote women’s networks which will be involved in peace building and election processes” (Conflict Prevention and Peace Building at 14); and e.g., U.K. NAP (2010): “[s]trengthen the ability of the DRC police and military to protect Congolese women” (The Democratic Republic of the Congo (DRC): Protection at 29), and “[s]trengthen the ability of peacekeeping troops to prevent sexual violence” (DRC: Protection at 30)).

Objective Three: Strengthen protection of women and children from harm, discrimination, and abuse

- **Protecting women’s rights:** Explicitly reject the practice of sidelining or bartering of women’s rights for perceived short-term peace and security gains as inconsistent with the obligation to ensure human rights protections to all persons; and ensure that women and women’s human rights concerns are represented and respected in all decision-making processes. (See e.g., U.K. NAP (2010): “[s]ecurity and stability that protects and promotes the human rights of all Afghans is essential for a future, peaceful Afghanistan” (Afghanistan at 18)).

- **Right to remedy:** Effectively prevent, investigate, prosecute and punish gender-based violence by State, non-State and multi-State actors, ensuring that the right to an effective remedy (including full and adequate reparations) is guaranteed to all victims of gender-based violence, e.g., by treating trafficked persons as human rights victims and by providing asylum to women forced to provide domestic service to armed groups. (See e.g., U.K. NAP (2010): “[s]trengthen and protect women’s rights and promote access to effective remedy” (Afghanistan: Protection at 23), “[p]ublicly challenge sexual and gender based violence” (DRC: Prevention at 26), “[r]aising awareness of legal redress for survivors of sexual violence” (DRC: Protection at 30) and “[s]upport survivors of sexual and gender based violence” (DRC: Relief and Recovery at 31); and e.g., Belgium NAP (2009): “[c]ontinue condemning impunity and encouraging prosecution” (Normative Framework at 8) and “[s]upport initiatives that involve women on the access to justice, encourage women to lodge complaints, and offer them protection and shelter” (Normative Framework at 9)).

Objective Four: Promote women’s roles in conflict prevention

- **Support women’s groups:** Encourage innovative ways of supporting local women’s organizations and networks through strategic financial contributions and other forms of capacity-building support, including in-kind assistance and the use of third-party intermediaries, where direct financial support is not possible or desirable. Provide effective guidance to women’s advocates and organizations on how to undertake the types of humanitarian, peace-building and other activities envisaged in UNSCR 1325 in areas where there is terrorist activity without running afoul of anti-terrorist financing laws. (See e.g., France NAP (2010): “support civil society organisations working to promote gender equality and the empowerment of women and to strengthen women’s equal participation in all decision-making processes” (Objective Two at 4); e.g., Sweden Revised NAP (2009): “[t]he Ministry for Foreign Affairs and Sida must utilise opportunities to give strategic financial contributions and other forms of capacity-building support for targeted activities to increase women’s participation in conflict prevention initiatives, conflict management and peace-building” (Efforts at National Level at 14); and e.g., Belgium NAP (2009): “[s]upport local women’s networks and organisations in order to strengthen their legal, economic, political and social capacities” (Development Cooperation at 16)).

Objective Five: Address the distinct needs of women and children in disaster and crisis response

- **Humanitarian access and aid distribution:** Ensure humanitarian access consistent with the *U.N. Office for the Coordination of Humanitarian Affairs Guidelines on Humanitarian Negotiations with Armed Groups*⁴ and enable distribution of aid consistent with the *Code of Conduct for the International Red Cross Red Crescent Movement and NGOs in Disaster Relief*, which prioritizes the humanitarian imperative, calculates aid priorities impartially and “on the basis of need alone,” and “recognize[s] the crucial role played by women in disaster-prone communities and...ensure[s] that this role is supported, not diminished, by our aid programmes.”⁵ (See e.g., Canada NAP (2010): “[s]upport projects in or for peace operations, fragile states and conflict situations that integrate the needs and capacities of women and girls in relief and recovery efforts” (Actions and Indicators: Relief and Recovery at 10); and e.g., Belgium NAP (2009): “[e]nsure that the specific rights and needs of women are taken into account in the framework of humanitarian aid to populations in countries with an armed conflict” (Development Cooperation at 16)).

⁴ Greg McHugh & Manuel Bessler, United Nations Office for the Coordination of Humanitarian Affairs, *Guidelines on Humanitarian Negotiations with Armed Groups* (2006), available at <http://ochaonline.un.org/humanitariannegotiations/Documents/Guidelines.pdf>.

⁵ Int’l Fed’n of the Red Cross, *The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief*, (Jan 29, 2003), available at <http://www.ifrc.org/Docs/idrl/I259EN.pdf>.