



The Use of UN Sanctions to Address Conflict-Related Sexual Violence

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ABSTRACT

The United Nations Security Council can use sanctions to advance its commitment to address conflict-related sexual violence. UN sanctions—specifically the designation criteria and the subsequent listing of sanctioned individuals—could and should be better used to prevent and curb sexual violence in armed conflict and address the impunity of perpetrators. The current approach is characterized by significant inconsistency across regimes, delay, and gaps. We conclude that the sanctions tool offers significant—and as yet largely unexploited—potential to advance women’s protection from sexual violence in situations of armed conflict, and make a series of recommendations for the Security Council and other stakeholders to improve the effectiveness of sanctions as a tool against sexual violence. In particular, the Security Council should systematically and immediately incorporate sexual violence as a stand-alone criterion when adopting a new sanctions regime, and should not hesitate to list perpetrators when there is repeated evidence of their conduct.

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Introduction and Motivation

Sexual and gender-based violence (SGBV) was seen as an inevitable consequence of conflict and was implicitly tolerated until its use as a weapon of war in the ethnic conflicts of the 1990s triggered international attention.¹ The Security Council has since recognized that the use of sexual violence as a tactic of war or as a widespread practice can significantly exacerbate armed conflicts and hinder the restoration of peace and security.² This recognition “has enabled the international community to take extraordinary measures that would not have been possible otherwise.”³ UN sanctions have been employed by the Security Council as part of its response to the armed conflicts on its agenda. These sanctions are coercive measures that address conflict-related sexual violence.

The legal basis for UN sanctions is found in Article 41 of the UN Charter. Sanctions are a Chapter VII coercive measure, which means that all UN member states are obligated to implement any sanctions decisions made by the UN Security Council.

Since 1966, sanctions have been used in twenty-seven cases (known as “sanctions regimes”). Sanctions are used to coerce, constrain, or signal states or non-state actors whose actions are deemed to be a threat to international peace and security.⁴ Sanctions have been used in various contexts, ranging from support to political stabilization (Cote d’Ivoire), to addressing massive human rights violations (Sierra Leone), curbing illegal smuggling (Libya), countering terrorism (Al Qaeda sanctions list), and seeking nonproliferation of nuclear weapons (Iran, North Korea).

Over time, the Security Council has increasingly relied on sanctions as a coercive measure to respond to threats to international peace and security. The design and use of sanctions have evolved correspondingly. Since the 1990s, the Security Council has employed sanctions more frequently and with increasingly broader scope and aims. At the same time, it has moved from comprehensive sanctions, which negatively impacted entire civilian populations, to more targeted or “smart” sanctions aimed at key individuals or specific economic sectors. Targeted sanctions serve several purposes: to constrain individuals and entities from engaging in certain conduct, to change behavior that is contrary to international law and norms, to deter other actors, to signal support for international norms by naming and shaming perpetrators, and to cut financial resources used to fuel conflict.

The Security Council has recognized that the use of sexual violence as a tactic of war or as a widespread practice can significantly exacerbate armed conflicts and hinder the restoration of peace and security.

Parallel to this evolution of sanctions, the Security Council has been breaking new ground on the human rights front. Understanding the overall architecture of human rights references in the Council’s resolutions is key.

From the outset, human rights have often been cited in the preambles of Security Council sanctions resolutions.⁵ In the 1960s, the Security Council began to acknowledge that systematic violations of human rights could constitute a threat to peace and security.⁶ Gradually, the Council started to incorporate human rights language in the preamble of its resolutions on specific country situations. However, these

resolutions' preambles simply recalled the existing international norms without being legally binding. In the early 2000s, the Security Council developed a new practice of adopting human-rights-based thematic agendas (protection of civilians, protection of children, protection and empowerment of women) under its Chapter VI powers. In 2000, the Security Council adopted Resolution 1325 under its Chapter VI recommendatory powers. Entitled Women, Peace, and Security (WPS), this thematic agenda triggers regular review by the Security Council. Resolution 1325 was groundbreaking in its adoption of a broad definition of peace. As the resolution states, sustainable peace and reconciliation depend on certain critical conditions, among which is women's right to be free from gender-based and sexual violence. Resolution 1325 is structured around four main pillars: participation, protection, prevention, and relief and recovery. Since 2000, the Council has adopted 13 WPS thematic resolutions and issued 27 presidential statements, all within the Chapter VI framework. The Council gradually began using targeted sanctions to support

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international norms protecting human rights, including those protecting women. As we explore below, the Council can use sanctions by both imposing and lifting targeted measures.

The goal of this paper is to examine how the Security Council has used sanctions to address sexual violence in conflict, and suggest ways to improve effectiveness. As far as we are aware, it is the first ever such review. It begins with the designation criteria across sanctions regimes, examines how sanctions have been used in practice, and explains the political dynamics and considerations behind these practices. We find substantial gaps and inconsistencies, and highlight potential gains that could be realized. We also make a series of recommendations to improve the effectiveness of sanctions as a tool against sexual violence. We conclude that the sanctions tool offers significant—yet largely underutilized—potential to advance women's protection from sexual violence in situations of armed conflict.

Mapping the Practice: Sanctions Regimes and Conflict-Related Sexual Violence

This section begins by reviewing the international definitions of sexual violence and the emergence of sexual violence as a designation criterion in UN sanctions regimes. We find that the Security Council's use of sanctions to address conflict-related sexual violence has been inconsistent across regimes, despite similar contexts and substantial expert evidence documenting the extent and nature of the violence.

The Emergence of Sexual Violence as a Designation Criterion in Sanctions Regimes

The Akayesu case provided the first broad definition of sexual violence.⁷ The International Criminal Tribunal for Rwanda (ICTR) Trial Chamber held that sexual violence is “any act of a sexual nature which is committed on a person under circumstances which are coercive.” Coercion is understood as not only physical force, but also “threats, intimidation, extortion and other forms of duress which prey on fear or desperation.” Sexual violence is not limited to an act of physical penetration and may include acts not involving any physical contact. Sexual violence therefore encompasses but is also broader than rape.⁸

In 1998, the Rome Statute of the International Criminal Court (ICC) criminalized “sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity,” which is a non-exhaustive list of what can constitute sexual violence.⁹

Other international cases and conventions give additional concrete examples of what can be prosecuted as sexual violence: sexual exploitation,¹⁰ mutilation of sexual organs,¹¹ sexual assault,¹² sexual harassment (such as forced stripping),¹³ forced marriage,¹⁴ forced abortions,¹⁵ and forced public nudity.¹⁶ The UN Secretary General has also adopted a broad definition of sexual violence in his reports on “sexual violence in armed conflict.”¹⁷

The term conflict-related sexual violence refers to “rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls, or boys that is directly or indirectly linked to a conflict.”¹⁸

The Convention on the Elimination of Discrimination against Women (CEDAW) defines gender-based violence as “violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”¹⁹ While women and girls are particularly targeted for gender-based violence, many cases involve men and boys as victims. Scholars from the International Committee of the Red Cross provide a similar definition, according to which gender-based violence is an “overall term, including sexual violence and other types of gender-specific violence not necessarily sexually-based.”²⁰

Sexual and gender-based violence are not the only forms of violence directed at women during conflict, nor are they the only forms of violence directed at civilians overall. Yet, sexual and gender-based violence are prevalent in most modern conflicts. While sexual violence and rape can be opportunistic, this paper focuses on sexual violence that is tolerated as a widespread practice or used as a tactic of war. Box 1 provides a short summary of the different forms of conflict-related sexual violence.

Resolution 1820 was adopted in 2008 in reaction to the situation in DRC, and marked the first time the Security Council noted that sanctions could be imposed on parties to an armed conflict in order to protect women from sexual violence. The Council denounced rape as a tactic of war used to intimidate, disperse, or forcibly relocate members of a community or ethnic group and expressed the possibility of imposing targeted sanctions against the parties “who commit rape

Box 1: Forms of conflict-related sexual violence

- 1. Opportunistic:** sexual violence can be opportunistic, i.e. the result of combatants acting for private reasons that have nothing to do with the practice or the objectives of their military unit.
- 2. General Practice:** sexual violence is considered a practice when it is tolerated by military commanders but not actually ordered. Combatants engage in sexual violence as part of a general practice among their military unit (i.e. pursuing the beliefs that having sexual relations with young girls will act as a lucky charm or give super-powers in combat). Military commanders are tolerating the practice because they believe that the costs of prohibiting rape would be higher than the costs of tolerating it. If tolerated as a general practice, and even if not ordered, sexual violence can therefore happen on widespread scales and can have the same impact on civilian populations and regional stability as when used as a weapon of war.
- 3. Weapon of War:** in some conflicts, opportunistic rape or rape tolerated as a practice are either replaced or accompanied by rape used as an orchestrated combat tool. The Security Council referred to sexual violence as a “tactic of war to humiliate, dominate, instill fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group.” Use of rape as a deliberate military strategy was notably seen in the rapes conducted by Japan during the 1937 occupation of Nanking and by Pakistan during the 1971 Bangladesh war of independence. Rape was also a weapon of choice during the 1990s civil wars. The systematic rapes of Muslim women in Bosnia were part of an ethnic cleansing practice, and the systematic rapes of Tutsi women in Rwanda were part of a genocidal campaign in which rape was deliberately used to transmit HIV.²¹ Sexual violence is not inevitable, but it can be a cheap and powerful tool for military forces to realize their military objectives. These objectives range from genocide (HIV contamination) to ethnic cleansing (forced pregnancies), enslavement of women and girls to give to combatants, sexual torture of prisoners, spreading terror, punishment, and even forcibly displacing populations in order to redraw ethnic boundaries or control areas rich in natural resources. This weaponization of sexual violence is seen today in conflicts such as in Myanmar, Sudan, Democratic Republic of Congo (DRC), Central African Republic (CAR), South Sudan, and in the territories controlled by the Islamic State of Iraq and the Levant (ISIL) in Iraq, Syria, and Libya.

and other forms of sexual violence against women and girls in situations of armed conflict.” The language of Resolution 1820 (2008) was repeated in Resolutions 1888 (2009),²¹ 1960 (2010),²² and 2106 (2013).²³ Resolution 2242 (2015) goes further by broadening the considerations to impose sanctions on those actors including: “those in terrorist groups, engaged in violations of international humanitarian law and violations and abuses of human rights, including sexual and gender-based violence, forced disappearances, and forced displacement.”²⁴

While Resolution 1820 was a welcome step forward, the eight-year gap since Resolution 1325 suggests some reluctance on the part of the Security Council to address the subject of conflict-related sexual violence. In contrast, progress on the Children and Armed Conflict agenda was more rapid, with the first Resolution 1261 (1999) being followed by the threat of sanctions in Resolutions 1539 (2004) and 1612 (2005). Condemning sexual violence usually triggers more controversy than condemning the abuse of children.²⁵ The modern international community does not accept recruitment of children as combatants, but it took much longer to accept that sexual violence is not an inevitable spoil of war.

The Security Council has not specifically defined sexual violence—it refers to the targeting of civilians, including women and children, for “rape and other acts of sexual violence” or “sexual and gender-based violence.” The threat and imposition of sanctions is limited to sexual violence in situations of armed conflict. Women can be subject to other violations in conflict, including forced disappearances or forced displacement. They can also be subject to large scale violations that occur in contexts that do not reach the threshold of an armed conflict.

It is noted that the ambit of Resolution 1820 is limited to conflict-related sexual violence solely when it is used as a weapon of war—that is, as a clear military strategy, or when part of a widespread or systematic attack against civilian populations.²⁶ The framework of Resolution 1820 thus limits what type of sexual violence can trigger the application of sanctions. The resolution only applies to widespread and systematic practices, or to tactics of war. Limiting consideration of sexual violence to these practices suggests that this is a security issue belonging to Chapter VII: the Security Council here implies that only deliberate targeting of civilians or attacks on a massive scale can threaten or hinder restoring regional peace and security. Excluding opportunistic rapes, sexual exploitation, or sexual violence tolerated as a practice on a smaller scale, also means that the Security Council avoids threatening states’ interests in their military operations or peacekeeping contributions.²⁷ This political compromise was reportedly needed to allow adoption of Resolution 1820 and threatening coercive measures under Chapter VII.²⁸

As a result of political compromise, the Security Council limited the ambit of Resolution 1820 to sexual violence used as weapon of war.

There are currently 14 sanctions regimes in place. We examine eight of them: Somalia, Sudan, DRC, Libya, Yemen, South Sudan, CAR, and Mali. Excluded from the review are terminated sanctions regimes (Cote d’Ivoire and Liberia), existing sanctions regimes without a connection to sexual violence in conflict or without any type of human rights criteria (Guinea-Bissau, Iraq, Lebanon, and North Korea), and the ISIL-Al Qaeda and Taliban sanctions regimes. While sexual violence has loomed large in the latter conflicts, their characteristics and treatment by the Security Council differ significantly from more traditional conflicts, and are not addressed in this review.

Designation criteria are specific actions enumerated by the Security Council that form the basis for imposing sanctions on individuals who engage in those actions. It is notable that the Council has never used women’s rights criteria (or any other human rights issue) as the sole basis for a designation. Over the past decade, the Security Council has calibrated the designation criteria to more clearly identify the kind of behavior or actions that it seeks to prevent. Designation criteria have also expanded to include violations of international humanitarian law (IHL), human rights abuses, commission of atrocities, use of child soldiers, sexual and gender-based violence, targeting of civilians, killing and maiming, abduction and forced displacement, and illegal smuggling of natural resources.²⁹

We now enumerate the types of designation criteria by dividing the sanctions regimes into two categories based on the type of designation criteria: those with an explicit reference to sexual violence, and those without.

Sanctions Regimes With an Explicit Sexual Violence Designation Criteria

There are five sanctions regimes—CAR, DRC, Mali, Somalia, and South Sudan—that explicitly include sexual and gender-based violence as designation criteria within a long list of other explicit human rights violations (Table 1). The language of the criteria varies somewhat across regimes. While the South Sudan³⁰ and DRC³¹ regimes refer to “rape or other sexual violence,” the Somalia regime mentions “sexual and gender based violence.” The CAR regime uses the same formulation as Somalia, but lists sexual violence as a separate criterion.³² The CAR regime is the only case in which sexual violence is a key criterion, standing on its own, which signals support for this norm and suggests a stronger will from the Council to deal with the issue of sexual violence, at least in this case.³³

Sanctions Regimes With Broad Human Rights Designation Criteria

There are three countries with broad human rights designation criteria in the sanctions regimes: Libya, Sudan, and Yemen (Table 1). Here, the Council conditioned the imposition of targeted sanctions on “planning, directing, or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses”³⁴ or the “commission of violations of international humanitarian or human rights law or other atrocities.”³⁵ This criterion may include sexual violence, but the absence of specific mention deprives sexual violence of focus and spotlight, despite reports of widespread sexual violence in those countries.³⁶ Such violations could still be subject to sanctions, whether the violations target women, civilians, children, or even peacekeepers. The Sudan sanctions regimes used this criterion to specifically address violations of IHL rules protecting women, because the Security Council associates these violations with sexual and gender-based violence in Resolution 2138 (2014).³⁷

To address sexual violence, the practice of the Security Council and its Sanctions Committees has been to target individuals with travel bans and assets freeze measures. Among the more than 105 listed individuals and entities across eight sanctions regimes, only 16 are listed for ordering or committing acts of sexual violence. This suggests that, despite reports of sexual violence and the identification of perpetrators provided by the UN Secretary General and the Panels of Experts (POE) across the different regimes, the Security Council is generally more willing to

sanction individuals for violations other than sexual violence.³⁸ The Council is also more willing to refer to sexual violence when it is not the only violation committed—sexual violence has never been used as the sole basis for designation.

Table 1 summarizes the structure of the different regimes and select reporting and political considerations.

Table 1: Sanctions regimes, their designation criteria, and political considerations

	Designation criterion			Timeliness and reports		Political considerations		International Criminal Court
	General and mentions IHL or IHRL violations	Explicitly includes SGBV as one of the violations	Explicitly includes SGBV as an independent criterion	UNSG, POE, and NGOs are reporting widespread SGBV	SGBV was included shortly after reported	Opposition or reservations from elected Security Council members	Opposition or reservations from P5 member(s)	ICC referral
Somalia	Mentions only “violations of international law”	✓	✗	✓	✗	✓	✓ Russia, China	✗
Sudan	✓	✓	✗	✓	✗	✓ Libya, India	✓ Russia, China	✓ By the Security Council
DRC	✓	✓	✗	✓	✗	✓ Rwanda	✓ Russia, China (mild reservations)	✓ By the DRC government
Libya	✓	✗	✗	Reports of widespread human rights violations	✗	✓ Especially since the military intervention	✓ Russia, China (since the military intervention)	✓ By the Security Council
Yemen	✓	✗	✗	✓ increase since 2016	✗	✗	✓ Russia (mild)	✗
South Sudan	✓	✓	✗	✓	✓ from the outset	✓	✓ Russia, China	✗
CAR	✓	✓	✓	✓	✓ from the outset	✗	✗	✓ By the CAR government
Mali	✓	✓	✗	✓	✓	✗	✓ Russia	✓ By the government of Mali

Table 2: Individuals listed across the regimes, based on the sexual violence designation criteria

	Overall number of individuals and entities on UNSC sanctions list	Individuals listed with references to SGBV	First listing for SGBV	Further listings for SGBV	ICC indictments	Recommendations of UNSG or POE on SGBV – applicable to all regimes
Somalia	13 individuals and 1 entity	0	None	None	N/A	<ol style="list-style-type: none"> 1. To ensure that the Sanctions Committees are informed by a dedicated sexual violence expertise 2. To invite the Special Representative on Sexual Violence to share information with the Sanctions Committees 3. To ensure that the designation criteria for sanctions include sexual violence in the resolutions 4. To list senior leadership and high-decision makers responsible for violations, notably by creating an annex of identified individuals
Sudan	4 individuals (2 on each side)	Possibly 1, listed for “violations of humanitarian law, human rights and other atrocities”	2005	None	5 (3 government officials and 2 militia commanders)	
DRC	35 individuals and 9 entities	10 individuals and 3 entities	2010	2012, 2014, 2016	6 (military commanders)	
Libya	20 individuals and 4 entities	Possibly 7, for “violations of humanitarian law” and “human rights abuses”	2011	None	3 (prime minister and 2 military commanders)	
Yemen	5 individuals and 0 entities	0	None	None	N/A	
South Sudan	6 individuals and 0 entities	5 individuals	2015	None	N/A	
CAR	12 individuals and 2 entities	According to the narrative summaries, 4 individual and 1 entity	2015	2016	2 (1 military commander)	
Mali	0	N/A	None	None	None	

Table 2 maps the listings of individuals across the regimes, revealing how many have been designated based on sexual violence and demonstrating the inconsistencies between the listings and the reports and recommendations made by other UN entities.

How Have These Designation Criteria Been Used in Practice?

Overall, the Security Council’s approach to using sexual violence as a designation criterion across sanctions regimes has varied significantly. Designation criteria are typically either late, inconsistently applied, and/or sexual violence is almost ignored, as highlighted below.

Late inclusion of sexual violence and inconsistent listings: The cases of DRC and Somalia

In DRC, Resolution 1533 (2004) created a Sanctions Committee and a Group of Experts.³⁹ Both had a narrow mandate, however, and did not focus on violations

before 2007.⁴⁰ The Group of Experts investigated cases of sexual violence and targeting of women following an extension of its mandate in 2008.⁴¹ It reported serious violations of international law targeting women and children,⁴² widespread sexual violence,⁴³ sexual enslavement,⁴⁴ and displacement of civilians.⁴⁵

Solid evidence of extensive abuse in DRC had been available for several years prior to 2004. For example, in 2000, the Special Rapporteur on the Situation of Human Rights in the DRC expressed “deep concern about the continuing violations of human rights and humanitarian law by all parties to the conflict, and the massacres in the eastern part of DRC.”⁴⁶ In 2002, prior to the Security Council’s imposition of an arms embargo, the Secretary General reported “widespread and grave violations of human rights and international humanitarian law,”⁴⁷ including the “systematic use of rape and other forms of sexual violence against women and girls by armed groups operating in the east.”⁴⁸ This was one of the first occasions that the Secretary General described sexual violence as a weapon of war.⁴⁹ Similar reports were reiterated every year until 2016.

Overall, the Security Council’s approach to using sexual violence as a designation criterion across sanctions regimes has varied significantly, and is typically either late, inconsistently applied, and/or sexual violence is almost ignored.

In the face of overwhelming evidence about human rights abuses and international humanitarian law violations in DRC, especially abuses directed at women, the Council responded slowly and to a limited extent. Although the DRC case might be one of the most successful sanctions regimes, its shortcomings are also evident:

- The Council called upon the parties to end IHL violations in Resolution 1493 in 2003, but waited until 2006 to address sexual violence committed against children, until 2008 to endorse a designation criterion encompassing sexual violence against women, and until 2016 to extend the criterion to all civilians.⁵⁰
- Between 2008 and 2010, the Group of Experts explicitly listed and identified more than 10 individuals or military units responsible—either directly or through command responsibility—for these violations. In contrast, by mid-2010, the DRC Sanctions Committee had only listed five individuals on the basis of criteria related to sexual violence, among other serious violations.⁵¹
- As of August 2017, of the 31 listed individuals and entities in the DRC sanctions regimes, 13 are specifically listed for human rights and humanitarian law designation criteria (not specifically for sexual violence), including three organized armed groups: the ADF, FDLR, and M23.⁵² Nine out of 10 of the listed individuals are military commanders of these groups. There is only one listed officer from the FARDC (the governmental forces) with designations that include sexual violence or rape.
- The number of individuals listed by the Sanctions Committee for abuse falls far short of the numerous identifications provided by the Group of Experts. Nor do the designations match the ICC indictments.⁵³ The Group of Experts reported many serious violations committed by the FARDC, giving names and precise reports.⁵⁴ The Secretary General’s annual report has listed the FARDC as engaging in sexual violence since 2011.⁵⁵ There are extensive references to violations by both the FARDC and rebel groups in 2012⁵⁶ and 2013,⁵⁷ and reports of mass rapes perpetrated by the FARDC as retaliation and as an instrument to assert control over the population.⁵⁸

In sum, while the DRC sanctions regime has a complex structure and a long list of designation criteria, the actual use of sanctions has been “sporadic and untimely.”⁵⁹ Yet, DRC reflects the most extensive use of the designation tool by the Security Council to address violations, and might be the most effective case of sanctions used to address sexual violence to date.

Similarly, in the case of Somalia, sexual violence has reportedly been widespread since at least 1991.⁶⁰ The Council imposed a sanctions regime in 1992 and imposed the first targeted sanctions in 2008 against individuals threatening the country’s peace, security, and stability. Yet, despite documentation of widespread sexual violence in Somalia, the Council only expanded the designation criteria of sexual and gender-based violence for targeted sanctions in 2011 (Resolution 2002).⁶¹ To date, no listings have been made on this basis.

*Immediate inclusion of sexual violence, but inconsistent application:
CAR and South Sudan*

Resolution 2206 (2015) created the South Sudan sanctions regime, which included rape and sexual violence in the list of prohibited acts of violence. To date, six individuals have been listed, and five of these listings refer to “widespread rape” among the reasons for the designation. This represents a relatively small number of designations, not adequate to deal with the prevalence of conflict-related sexual violence on the ground.⁶² This stands in contrast to the six Panel of Experts reports documenting the deliberate use of rape and sexual violence as a war tactic, including cases of abduction and sexual slavery,⁶³ with the intent of destroying communal life and prohibiting any return to normalcy.⁶⁴ These acts are characterized by a widespread impunity.⁶⁵ The Panel of Experts has provided names and evidence for listing. To date, however, there have been no follow-up designations by either the Security Council or the Sanctions Committees.

The case of CAR is one of relapse into conflict. In December 2013, following the collapse of a 2007 peace agreement and the escalation of violence and widespread human rights abuses, the Security Council unanimously adopted Resolution 2127 imposing an arms embargo on CAR and threatening to adopt individual sanctions. The continuing deterioration of the situation and the use of sexual violence as a retaliation tool at the community level (by Seleka and Muslim communities and by anti-Balaka and Christian communities against one another) led to the adoption of targeted sanctions in Resolution 2134 (2014) against individuals undermining peace, threatening the political process, and committing atrocities, including the perpetration of sexual violence.⁶⁶

Despite the election of a new president in December 2015, most CAR territory remained under the control of armed groups and an estimated 600,000 individuals (more than 10 percent of the population) were internally displaced.⁶⁷ In light of repeated reports of the use of sexual

Given the large scale of sexual violence in CAR reported by the Panel of Experts and the Secretary General—and the establishment of sexual violence as an independent criterion—listing four individuals and one entity seems insufficient.

violence, and a specific recommendation by the Special Representative for Sexual Violence in Conflict, the Security Council unanimously adopted Resolution 2339 (2017) making sexual and gender-based violence a standalone criterion for targeted

sanctions. Of the 12 listed individuals and two entities, sexual violence is specifically referred to in the narrative summaries for four individuals and one entity. The other listings, although based on the criterion of IHL and international human rights law (IHRL) violations (which includes sexual violence), do not refer to sexual violence in their narrative summaries. CAR emerges as a success in terms of the attention granted to sexual violence in the designation criteria. Given the large scale of sexual violence in CAR reported by the Panel of Experts and the Secretary General—and the establishment of sexual violence as an independent criterion—listing four individuals and one entity for targeted sanctions seems insufficient, but is nonetheless a “success” compared to other sanctions regimes.

Reports of specific sexual violence violations ignored, with very inconsistent listings: Libya, Sudan, and Yemen

The Security Council established the sanctions regime for Sudan in 2005, soon after the breakdown of the Darfur peace process.⁶⁸ From the outset, the sanctions regime included violations of human rights and humanitarian law as criteria for targeted sanctions.⁶⁹ Yet, the Council only listed four individuals in Resolution 1672 (2006), and only one is linked to violations of human rights and humanitarian law.⁷⁰ The subsequent resolutions on Sudan, more than sixty of them, largely focused on renewing the mandate of the Panel of Experts, without tailoring the sanctions regime to the worsening situation on the ground.

Since 2006, the Panel of Experts has systematically reported on sexual and gender-based violence, among other serious violations of human rights and humanitarian law.⁷¹ It determined that sexual and gender-based violence is “one of the most critical threats to women and girls,” used as an instrument of warfare, and increasingly rampant.⁷² The panel noted the widespread occurrence of sexual violence in Sudan, the involvement of all parties in perpetrating sexual violence (rebel armed groups, pro-governmental militias, and regular armed government forces), and the virtual impunity of the perpetrators.⁷³ The panel also provided extensive information and evidence to the Sanctions Committee on specific violations, as well as information on the responsible parties.

Sexual violence is reported as one of the most critical threats to women and girls in Darfur.

The panel repeatedly recommended designating the senior leadership responsible for violations of international human rights and humanitarian law, and even provided confidential annexes and identified individuals for listing, in order to diminish the sense of impunity among perpetrators.⁷⁴ Yet, despite that evidence, the sanctions list has not been revised.

It is also striking that there is no connection between the individuals in the six ICC arrest warrants for Darfur-related mass atrocities and the individuals listed in the Sudan sanctions regime. The ICC focuses on the most serious crimes, committed by the most serious perpetrators,⁷⁵ and the indictments of these individuals focus on the targeting of civilians, including in sexual and gender-based crimes.⁷⁶ The Sudan Sanctions Committee has not listed any of these individuals, despite the evidence that their actions fall within the designation criteria. The ICC prosecutor later expressed “a deep sense of frustration, even despair” that the ICC briefs had been followed by inaction and paralysis in the Security Council, “while the plight of victims

of crimes committed in Darfur has gone from bad to worse.”⁷⁷ More than a decade after the imposition of the sanctions regime, the case of Sudan reveals the failure to use sanctions to seek to bring an end to the atrocities happening in Darfur.

The case of Libya demonstrates similar failures. The Security Council imposed a sanctions regime on Libya with Resolution 1970 (2011) in order to address the violent repression of protesters against the Gaddafi government, with a designation criterion based on “serious human rights abuses.”⁷⁸ Yet the designation criteria remained very general, despite widespread sexual violence being documented by the Panel of Experts. Sexual violence was not used by the Security Council as a designation criterion for targeted sanctions in subsequent resolutions. Moreover, the 20 individuals listed in 2011 (members of the Gaddafi regime) remain the only individuals listed today, and do not reflect the situation on the ground with clashes between armed groups fighting for power and contesting the government.⁷⁹

In Libya, as elsewhere, the Panel of Experts has provided evidence and recommended new designations for those committing serious violations of human rights and humanitarian norms. These recommendations aim to “contribute [to] ending the current climate of impunity in Libya.”⁸⁰ The panel provided the Sanctions Committee with detailed information on the individuals and entities responsible. It has also criticized the “international hesitancy to intervene, as shown by the lack of new investigations by the ICC or any new sanctions designations since 2011,” which has resulted in a climate of impunity for violators of human rights and especially perpetrators of violence against women.⁸¹

Despite “deploring the increasing violence in Libya” and “expressing its deep concern at its impact on Libya’s civilian population,” the Council has not used sanctions to curb the violence.⁸² The Libyan case presents another example where the initial promise of human-rights-based designation criteria has not been realized.

In Yemen, the Security Council first threatened the imposition of sanctions in Resolution 2051 (2012). In Resolution 2140 (2014), the Council imposed an assets freeze and travel ban on specific individuals. Among the designation criteria was the commission of massive human rights violations. Despite the reports by the Secretary General on the increase of sexual violence in Yemen, it is hard to obtain evidence of the use of rape as a weapon of war. Given pervasive insecurity, the Panel of Experts has been unable to fully investigate the situation in Yemen. To date, only five individuals have been listed, and none for massive human rights violations (and therefore not for sexual violence). The only designations are on political officials, and it is more difficult to prove their involvement in massive human rights violations. This situation shows that the Security Council is reluctant to deal with sexual violence in Yemen and that it does not consider sexual violence a priority.⁸³

In sum, while there have been welcome developments on sanctions and sexual violence over the past two decades, the practice overall reveals major inconsistencies.⁸⁴ Among the most promising cases are CAR, which has the most advanced regime in terms of designation criteria, and DRC, which has the most relevant designations. These two regimes demonstrate the potential of sanctions that were not pursued elsewhere, despite the gross violations on the ground. Box 2 summarizes key findings and patterns found in the Security Council’s approach to sexual violence across the sanctions regimes.

The mixed record suggests some dissent among the Council's members on how to use human rights as a basis for coercive action, a theme to which we now turn.

Box 2: Summary of sanctions shortcomings

- 1. Several sanctions regimes are framed in terms of generic criteria,** with no mention of sexual violence, despite numerous reports of violations involving women. In these cases (Libya, Sudan, and Yemen), an explicit criterion referring to sexual violence, adapted to the situation, is called for.
- 2. Sanctions regimes typically only explicitly refer to sexual violence in a general list of violations.** A better approach is to set out a singled-out criterion for sexual violence, as in the case of CAR, or to follow the model of the criteria referring to the recruitment and use of child soldiers. **A standalone criterion referring to sexual violence is more useful than when sexual violence is only part of general language on humanitarian abuses.**⁸⁵ A criterion makes it explicitly clear as to why sanctions are being imposed and increases stigmatization of the individuals ordering, perpetrating, or condoning sexual violence.
- 3. Despite accumulated evidence, the inclusion of sexual violence in the designation criteria is sometimes delayed for years,** as in DRC and Somalia, or is completely left out, as in Libya and Sudan.
- 4. The designation criteria included in the resolutions are used inconsistently, and follow-up is weak.** This reveals reluctance on the part of the Council to adopt targeted sanctions, especially on government officials. The threat of sanctions is rarely translated into action. The actual listings typically occur years after the adoption of the designation criteria, or they do not match the high rates of sexual violence on the ground.
- 5. No individual or entity has been listed solely on the grounds of sexual violence,** and very few on the basis of human rights violations alone.
- 6. A recent development to be welcomed is that the Security Council has begun to take greater measures to combat sexual violence in the design of sanctions regimes.** In the cases of CAR, South Sudan, and Mali, the resolutions incorporated sexual violence as part of the designation criteria from the outset, whereas in the past, the Security Council would only focus on general human rights violations. This evolution in the design of sanctions regimes warrants tracking, to see whether this reflects a new trend that is sustained over time.

Explaining the Inconsistencies: What We Learn from CAR and Sudan

Public diplomatic statements are the only source officially available to cast light on Security Council discussions and debates. However, while the available procès-verbaux (PVs) include the WPS open debates and the sanctions regimes, most votes brought to the Security Council are the result of unrecorded dialogue.⁸⁶ Most of the Council's substantive debates on controversial issues happen behind closed doors before being put to a vote in open session.

This section looks to political factors to explain the successes and shortcomings in sanctions regimes, drawing on UN documents, press releases, scholarly writing on the Council's overall political and legal dynamics,⁸⁷ and interviews with relevant experts and UN officials.

Political Challenges in the Security Council and Impediments to Consistency Across the Sanctions Regimes

Several factors might be expected to influence the use of sanctions to address sexual violence. Each Security Council member state has its own views on the extent to which human rights belong to the Council's mandate and on the use of coercive measures.⁸⁸ Each Council member state also has its own national interests and objectives. These competing dynamics affect the willingness and ability of the Security Council to use sanctions to address conflict-related sexual violence in specific situations.

A review of the evidence suggests that four broad and intertwined dynamics help explain the inconsistencies across different regimes in dealing with conflict-related sexual violence.

First dynamic: a divide among Security Council members towards human rights⁸⁹

Most Chapter VII interventions aim to support a cease-fire, negotiations, or peace-building. Human rights are always a component of UN military interventions or use of sanctions but almost never the primary objective of Chapter VII coercive measures.⁹⁰ China and Russia (with the support of other elected members, such as India and Pakistan⁹¹) favor a stricter interpretation of the UN Charter and what should be considered a threat to international peace and security under Article 39.⁹² These states are not supporters of adding what they regard as "soft" topics, like human rights, to the Council's agenda.⁹³

Since 2007, the champions of the WPS agenda among the permanent members (P5) have been France, the United Kingdom, and the United States.

Women's human rights face additional resistance, compared to broad human rights.⁹⁴

There has been an ongoing debate about whether WPS falls within the Council's mandate under Chapter VII. Traditionally, sexual violence was considered to be a women's human rights issue falling under the mandate of the UN General Assembly.⁹⁵ Russia expressed concern that dealing with conflict-related sexual violence would open the door to a broader discussion on sexual violence and "gender."⁹⁶

The changing composition of the Council and the turnover of elected members shift these dynamics over time. Gains made in a one- or two-year period by elected states that strongly support WPS and sanctions can be scaled back if new elections result in inclusion of states that are more cautious or conservative on these subjects.

Since 2007, the champions of the WPS agenda among the permanent members (P5) have been France, the United Kingdom, and the United States.⁹⁷ These three countries (the P3) are not only the permanent-member champions of WPS, they have also been taking the lead on drafting UN sanctions resolutions. The United States has led 56 percent of targeted sanctions resolutions drafts, France 25 percent, and the UK 10 percent.⁹⁸ Additional state supporters of WPS vary depending on the elected terms,⁹⁹ but notable champions have included Austria, Belgium, Germany, Italy, Japan, Mexico, Norway, Portugal, Sweden, Turkey, and Uganda.¹⁰⁰ All of these states have called for the use of sanctions in order to advance the WPS protection pillar.¹⁰¹ Several have called for systematic and explicit inclusion of sexual violence as a designation criterion in all sanctions regimes.¹⁰² Others have recommended adopting a broader criterion “including rape as a weapon of war, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or other forms of sexual violence of comparable gravity.”¹⁰³ Additionally, these states have advocated for regular updates and harmonization of criteria across the various regimes,¹⁰⁴ and pushed to establish sexual violence as a singled-out criterion.¹⁰⁵

The positions of Russia and China appear to depend on the composition of the Council. For example, a broad range of geographic groups supported the WPS agenda from 2008 to 2010, leading Russia and China to soften their opposition. However, from 2010 to 2012, the more conservative positions of newly elected members (notably India and Pakistan) supported Russia and China in their more restrictive views. Since 2012, the dynamic has been less stable because of the divisions between Council members on Syria and Libya. The more recent 2015–2017 period has seen the Council’s advanced use of sanctions, with the immediate inclusion of sexual violence as part of the designation criteria in the newer regimes (CAR, Mali, and South Sudan).

Looking ahead, six out of 10 elected members will be replaced in 2017 and 2018, including several strong champions of the WPS agenda (Japan, Sweden, Ukraine, and Uruguay). The looming question is how the current US government will impact the Council’s embrace of WPS.

Second dynamic: a divide among Security Council members toward the use of coercive measures

Unlike the P3 member states, which are willing to use Chapter VII coercive measures to deal with internal conflicts and human rights situations, Russia, China, and other more conservative member states follow a narrower interpretation of international law and are reluctant to adopt measures that they believe encroach on state sovereignty and nonintervention.

Evidence suggests that the Security Council is often more willing to impose sanctions on armed groups than on governments.¹⁰⁶ This is especially true for sexual violence, given the lack of consensus among Security Council members as to whether human rights violations justify sanctions.¹⁰⁷ In several situations of widespread

conflict-related sexual violence, the absence of explicit sexual violence designation criteria and the lack of listings might be explained by the reluctance of some member states to use sanctions against government officials because of sovereignty issues. Some Council member states face situations of insurgencies or armed confrontations at home (for example, Russia and Chechnya, and China with Tibet), and therefore seek to avoid creating precedents for a Security Council role.¹⁰⁸ Some member states argue that the Council should refrain from sanctions regarding sexual violence when the targets are affiliated with the government, because this is an issue for national authorities, and that instead, the Council should focus on non-state actors. For instance, addressing violations committed by the DRC government forces was politically sensitive in the Council, because the DRC government was trying to regain control over its territory from insurgent groups. This resulted in the very few listings of FARDC members compared to the FARDC actions reported by the Panel of Experts. The reluctance to target governments also explains the shortcomings of the designations in Somalia, South Sudan, and Sudan.¹⁰⁹

The use of sanctions can reinforce and establish international legal precedents and strengthen international norms.

The fact that sexual violence has not been adequately used as a designation criterion and that there are too few listings for sexual violence can be partially explained by the reluctance of some states to create or reinforce new legal norms. Through designation criteria, the Council can play an important role in “norm diffusion,” with long-term effects on international law.¹¹⁰ While international legal norms protecting women in armed conflict do exist (see notably the Geneva Conventions and their Additional Protocols, as well as the customary rules of humanitarian law) the use of sanctions can reinforce and establish new political and international legal precedents and strengthen international norms.¹¹¹ In this context, the inconsistencies across sanctions regimes reflect the political dynamics as member states seek to establish, limit, or refute norms and precedents in different domains.¹¹²

At the same time, it is difficult to reverse a norm once articulated in coercive language in a Security Council resolution,¹¹³ especially when the norm becomes routine in both its language and its application.¹¹⁴ Once a norm is established, there is no need to redefine or renegotiate the norm in a new sanctions regime—especially important given the rotation of elected members.¹¹⁵ This is the case of the language on the exemptions to arms embargos, assets freezes, and travel bans, which has become standard practice across the sanctions regimes. This is not yet the case for sexual violence, given the inconsistent approach to date. The adoption of systematic language on sexual violence, repeated across regimes, could lead to the creation of a standard practice from which it would be difficult to depart in the future.

Finally, the variable treatment of sexual violence across sanctions regimes, both in the designation criterion and the listings, can be explained by the caution of member states, and the need for extensive documentation that sexual violence is being used as a weapon of war. This need for conclusive proof could explain the lack of sexual violence designation criteria in the cases of Libya and Yemen, countries where the Panels of Experts’ investigations are limited for security reasons and where the reports of sexual violence are less documented than in other instances.¹¹⁶ Some Council members are also hesitant to act because they do not perceive sexual violence as fitting in the 1820 weapon framework.¹¹⁷ The requirement of compelling evidence, however, only partially explains the inconsistencies;

other political considerations are at play. In Libya, rapes used as a military tactic by Gaddafi's troops during the 2011 revolution were widely reported.¹¹⁸ In Sudan, the widespread and deliberate use of sexual violence has been reported by the Secretary General, the Panel of Experts, and through NGO shadow reports since 2003. Yet, in neither of these cases did the Council act upon that evidence.

Third dynamic: the Security Council sometimes has to deal with competing objectives within one sanctions regime

There are other instances where the Council has postponed action for political reasons. For instance, the UN Organization Stabilization Mission in the DRC is one of the United Nations' largest peacekeeping missions. This mission requires that the Council maintain good relations with the DRC government, and targeting too many individuals on the government side (including the FARDC) could undermine that relationship.

The Council may also avoid listing many violators because of the government's ongoing efforts to put an end to the violations. For instance, since 2013 the UN Secretary General has been reporting the efforts undertaken by the DRC government to arrest and try perpetrators of sexual violence within its own security forces.¹¹⁹ The Council may have weighed the benefit of listing FARDC members engaged in violations against encouraging the government's efforts in the right direction. Another example is the case of South Sudan, where the Council and the Sanctions Committee were reluctant to list violations out of concern that it would diminish chances for a political solution to the conflict. Additionally, the African Union, China, and Russia argued that sanctions would be inappropriate because it would prevent the parties from engaging meaningfully in the peace process.¹²⁰ In Somalia, the Monitoring Group proposed up to 200 names for listing, but the Sanctions Committee did not follow up on the designations of government officials, deciding it was more important to be supportive of the government and focus on the biggest security threats, and therefore avoid focusing on "details" such as sexual violence.¹²¹

Fourth dynamic: structural and organizational challenges at the level of the Sanctions Committees

Each sanctions regime is administered by a sanctions committee, which is a subsidiary of the Security Council, chaired by a nonpermanent member. For several reasons, obtaining consistent language for and application of designation criteria in the committees has proven difficult.¹²² The committees are chaired by elected member states, with a rotation every two years, which can disrupt the monitoring and administration of the country regime. New chairs (and new member states in the committees) encounter existing sanctions regimes that may be somewhat dated and complex, such as the Somalia or Sudan regimes. The committees are composed of diplomats who are not necessarily familiar with sanctions regimes or with sexual violence,¹²³ and the capacities of the chairs vary.¹²⁴

Moreover, the sanctions committees are informed by the Panels of Experts' reports. Yet, the panels must adhere to a word limit in their reports, they often lack a sufficient number of humanitarian experts to investigate all of the violations, and their reports are rarely read entirely by the committee members.¹²⁵ Sexual violence is sometimes left out of reports in order to prioritize other violations.

The Sanctions Committees list individuals, but decisions are made by consensus. Getting a designation can therefore be much more difficult at the committee level. In cases of deadlock, the member states do not always refer the situation to the Council for a majority vote. Seeking to address this issue, the Council adopted strong language in Resolution 2106 (2013), urging existing Sanctions Committees to apply targeted sanctions against identified perpetrators when the relevant criteria were already established.¹²⁶

Case Comparison: Sudan and CAR

To demonstrate the impact of political considerations on the design of the sanctions regimes, it is instructive to compare the neighboring cases of Sudan and CAR. As shown in Table 3, the documented patterns of sexual violence were very similar, however, the approach of the Security Council in dealing with widespread conflict-related sexual violence varied enormously.

Despite similar patterns of sexual violence, the Security Council reacted very differently in the two situations.

In CAR, the Security Council's overall reaction to the escalation of violence was rapid and resolute.

- Sexual violence was immediately included among the broad designation criteria in 2015 and established as a key and separate criterion in 2017.
- Sexual violence is now fully established as a singled-out and independent criterion, which makes it possible to increase the visibility of such crimes and to send a strong message to perpetrators of sexual violence in conflict. The resolution was unanimously adopted by Security Council members, and the PVs have shown no political opposition or dissent over the three years of the regime's existence.
- Less than four months after the creation of targeted sanctions, the first individual designations were made on three individuals: two on either side of the conflict (Seleka and anti-Balaka), and one on former President Bozize.
- The sanctions list was regularly updated in 2016 and 2017.

In Sudan, the response was the opposite. The PVs on Sudan reveal major political dissent among the Security Council members.

- The sanctions regime was tarnished from the beginning by the abstentions of Algeria, China, and Russia on the resolution, and by the acrimonious debates over the designations.¹²⁷ The Secretary General recommended targeted sanctions in 2005 to halt the killings, protect civilians, and increase pressure on both sides of conflict.
- The first designations were made in Resolution 1672 (2006)—an unusual procedural move because designations are the mandate of the Sanctions Committees, not the Council. Before Resolution 1672, the United States and United Kingdom proposed that the Sanctions Committee target more than

Table 3: Patterns of sexual violence in CAR and Sudan

	CAR (2013–2017)	Sudan/Darfur (2005–2017)
General pattern	<ul style="list-style-type: none"> • Widespread and systematic conflict-related sexual violence • Ethnic and sectarian nature • Weapon of war • Overall continuing insecurity • State unable to prosecute (nonfunctional justice system) 	<ul style="list-style-type: none"> • Widespread and systematic conflict-related sexual violence • Ethnic and sectarian nature • Weapon of war • Overall continuing insecurity • More than 50 percent of victims are children • State unwilling to prosecute
Type of acts	<ul style="list-style-type: none"> • Abduction, rape, forced marriage, forced impregnation, sexual slavery, and gang rapes • During livelihood activities and displacement and in IDP camps 	<ul style="list-style-type: none"> • Abduction, rape, forced marriage, forced impregnation, sexual slavery, and gang rapes • During livelihood activities and displacement and in IDP camps
Perpetrators	<ul style="list-style-type: none"> • Majority non-state actors • Several cases by governmental forces, gendarmes, and the police 	<ul style="list-style-type: none"> • All parties to the conflict: armed militias, Sudanese Armed Forces, police officials
Causes and influencing factors	<ul style="list-style-type: none"> • Ethnic retaliation, humiliation, and punishment of the targeted populations • Perpetrated against women suspected of trading with members of “enemy communities” • Cause and consequence of displacement 	<ul style="list-style-type: none"> • Ethnically motivated sexual violence • For punishment, persecution, and forced displacement
Justice mechanisms or impunity	<ul style="list-style-type: none"> • Paralysis of justice system • Reported rape cases resolved through “amicable settlements” (forced marriage or financial compensation) • One anti-Balaka fighter sentenced to five years imprisonment for rape 	<ul style="list-style-type: none"> • Climate of impunity; even with adequate evidence, very few formal prosecutions • Resolved through traditional settlements (forced marriage to perpetrator)
Actors’ commitments	<ul style="list-style-type: none"> • 2016 Bangui Forum for National Reconciliation: Women’s organizations called to end impunity for sexual violence • Limited results 	<ul style="list-style-type: none"> • 2016: The SPLA to adopt a plan to address the lack of discipline and control within troops and the recurrent pattern of sexual violence • First specific plan by non-state actors to combat sexual violence
Evolution over time	<ul style="list-style-type: none"> • 2013–2015: All parties are using sexual violence to subjugate and humiliate opponents • 2016–2017: All parties continue to use sexual violence, but Secretary General report indicates a decrease by governmental forces 	<ul style="list-style-type: none"> • Ongoing situation for the last thirteen years • No improvements; deterioration of the situation • 2014: Increased pattern of gang rapes against women and girls
Recommendations by UN Secretary General	<ul style="list-style-type: none"> • Designate individuals undermining peace (this recommendation was followed by a listing) • Encourage CAR authorities to investigate and prosecute individuals responsible for serious violations and abuses, including the individuals listed by the committees 	<ul style="list-style-type: none"> • Extend designations to include key perpetrators • Refer to the annexes of identified perpetrators from the Panel of Experts¹²⁸

30 individuals responsible for mass atrocities, including sexual violence. This draft faced serious opposition, especially from Russia and China. As a result, the United States pushed for the inclusion of four individuals in the resolution, hoping that, even if vetoed, the names would still be publicized.

- Since 2006, no new listings or updates of the measures have been made, despite recurring recommendations and reports by the Secretary General and the experts urging the Council to do so. Over the years, the Special Representative to the Secretary General for Sudan has asked for sanctions against commanders and political leaders¹²⁹ while criticizing the message sent by the Council that, in Sudan, one could violate without being sanctioned.¹³⁰
- After 13 years of sanctions and reports of widespread sexual violence, there has been little to no reduction in the mass atrocities, including sexual violence, because the Council acted late, imposed a weakly enforced limited arms embargo, and listed very few individuals, with no mention of sexual violence.

These contrasting cases indicate that political considerations can limit or paralyze the design of sanctions regimes. Dissent on the part of powerful actors—in these cases, Russia and China’s opposition to coercive measures in Sudan—can result in impotent sanctions regimes without effective designations. The signaling benefit of sanctions is undermined by the lack of unity and agreement within the Council to support existing international norms. Lack of political will and consensus in the Security Council can also seriously erode the implementation and effectiveness of sanctions. Table 4 below summarizes the political dynamics characterizing both sanctions regimes.

Table 4: Political dynamics in CAR and Sudan

	CAR	Sudan
General dynamic (unanimity, dissent)	Apparent unanimity and support for the regime by the CAR government	Strong dissent on the sanctions regime and criticism by the Sudanese government
P5 dynamic (unanimity, dissent)	Apparent unanimity and support for the regime	Strong dissent within the P5, including opposition from Russia and China to any additional sanctions measures, use of shadow vetoes, frequent and caustic debates, and strong conflicting opinions
Elected member dynamics	Apparent unanimity and support for the regime	Dissent among elected members
Leadership	France is the penholder	US, UK, France
Pressure by Secretary General or civil society	NGO involvement	Significant NGO pressure

In CAR, three main political considerations help explain the swiftness of the Council's reaction and the lack of political controversy:

- First and foremost, France appears to be the leading penholder on CAR. France's leadership comes from its position as a former colonial power (both the United Kingdom and France benefit from a recognized leadership role on situations in former colonies) and the presence of French troops on the ground.¹³¹ When a state holds a leadership position on a country situation, it assesses the type of conflict resolution needed and identifies which sanctions measures to adopt.¹³² France is a strong champion of the WPS agenda and advocated for a separate criterion targeting sexual violence.
- Second, the chair and vice chair of the Sanctions Committees are Ukraine and Japan, both very involved with the WPS agenda. Additionally, the CAR government and the African Union requested the imposition and effective implementation of a sanctions regime in CAR. Support from the targeted state government and the relevant regional organization gives credibility and strength to a sanctions regime while deterring possible opposition in the Council.
- Third, Russia and China more often oppose sanctions in situations concerning their own interests, and CAR does not touch upon their economic or political interests, nor does it contradict their defense of national sovereignty. Scholars have found that one key element for success of the Council's measures is consensus among the Council's members and moderately intense interests of the P5.¹³³

In contrast, the Sudan sanctions regime was marred by political dissent from the beginning:

- Ongoing penholders on Sudan are France, the United Kingdom, and the United States, and regular opponents to the resolutions are Russia and China. These two states have ideological and economic interests that have stymied the sanctions regime.¹³⁴ Over the years, the United States and Russia have been blaming each other for the failure of the Council on Sudan.¹³⁵
- Russia and Pakistan agreed on sanctions on rebel groups but refused to concede on sanctions against the Sudanese government. Additionally, China, Morocco, Pakistan, and Russia called for caution in any new sanctions measures.
- The ICC indictment of President Omar Al Bashir triggered further dissent at the Council, with virulent criticism from China, India, Libya, Russia, South Africa, the African Union, and the League of Arab States. On the other side, France, the United Kingdom, and elected members Australia and Lithuania supported the use of sanctions lists to implement the ICC arrest warrants and indictments. The United States imposed unilateral sanctions on Sudanese individuals financing the conflict in Darfur, triggering criticism from Russia.
- The net effect has been the paralysis of the sanctions regime in Sudan. Even the reports of the Panel of Experts were sometimes blocked from publication by members of the Council, notably Russia. To block the publication of the experts' reports removes any potential influence.¹³⁶ Even after the tragedies

of Rwanda and Bosnia, the Council has failed to use the sanctions regime to address widespread sexual violence in Darfur.

The political dynamics of the Council and the divergent interests among its members clearly impact the design of the sanctions and hinder the appropriate responses to address sexual violence and broader human rights violations in civil wars. The reluctance of some states to effectively use sanctions amounts to the toleration of sexual violence in armed conflict, despite its obvious use as a weapon of war, its clear prohibition under many instruments of international law, and its acknowledged negative impact on conflict resolution.

Evidence of Effectiveness: Coerce, Constrain, and Signal

Measuring the impact of sanctions is challenging because of the variety of available approaches and tools, the integration of sanctions with other measures, and the unknown counterfactual. Sanctions target a wide range of actors: entire governments, specific government leaders, nongovernmental entities, armed groups, facilitators, and neighboring states. Measures range from individual sanctions, such as assets freezes and travel bans, to sanctions aimed at groups, such as arms embargoes, commodity export bans, luxury bans, and diplomatic restrictions. In practice, the preferred tools have been arms embargoes (used 88 percent of the time), followed by assets freezes and travel bans (used 75 percent of the time).¹³⁷ Sanctions are almost always employed in combination with other tools: 97 percent of UN targeted sanctions are combined with diplomatic initiatives and 73 percent are combined with peacekeeping or other military operations.¹³⁸

Currently, little is known about the impact of sanctions, and even less about the impact of sanctions on sexual violence in armed conflict.

Currently, little is known about the impact of sanctions, and even less about the impact of sanctions on sexual violence in armed conflict.¹³⁹ Sanctions can coerce, constrain, signal, or stigmatize a target in response to specific activities.¹⁴⁰ Each sanctions measure has multiple objectives. For example, a travel ban aims to prevent travel, but may also constrain an individual's access to resources. This section seeks to examine how sanctions regimes can impact sexual violence.

We examine the three channels of potential impact—coercion, constraint, and signaling—while recognizing that these are intertwined: constraint can be used to coerce, a signal can be used to constrain, and coercion can be used to signal and constrain.¹⁴¹

Coercion here means triggering a change in behavior in order to meet specific goals. Although coercion is difficult to achieve, the DRC case suggests that sanctions can work as an incentive to trigger a change of behavior among governmental forces.¹⁴² FARDC forces have been reportedly committing sexual violence on a widespread scale since the beginning of the sanctions regime. The threat to use sanctions in response to sexual violence was made in 2008. In 2010, the first designation of an FARDC high official was made because his command was responsible for the rape of a large number of women and girls. Between 2010 and 2014, the DRC government made several commitments to develop and implement an action plan to combat sexual violence among FARDC forces, focusing on command responsibility and accountability, and a commitment to work closely with the Special Representative for Sexual Violence in Conflict to develop this plan. In 2014, the DRC government finally launched a national action plan to deal with sexual violence in conflict committed within the FARDC ranks. Since 2014, military field commanders have been trained on IHL obligations, and several FARDC members have been prosecuted and convicted for sexual violence. The efforts undertaken by the DRC government to address sexual violence might have been triggered in part by the threat and imposition of sanctions, which showed the Council's commitment to

act, as well as by the close cooperation with the Secretary General's office. Targeted sanctions in the DRC might have contributed to this policy change for two reasons: the fear other officials had of being designated, and the fact that listing high commanders for sexual violence perpetration would prevent DRC from contributing troops to peacekeeping operations.

Constraint means preventing an individual from engaging in a proscribed activity, by raising the costs of doing so through, for example, assets freezes and travel bans.¹⁴³ A travel ban and assets freeze can restrict the target's movement and access to funds and may trigger a change of behavior regarding sexual violence and other crimes. Individual sanctions can deprive the target the opportunity to buy arms, gather support, recruit, and secure financing, thereby reducing their resources and ability to commit a specific activity. According to the Targeted Sanctions Consortium, constraining is one of the most effective ways sanctions can trigger behavioral changes (42 percent of the time).¹⁴⁴ While constraining sexual violence via sanctions can seem difficult, as committing sexual violence is mostly a monetary cost-free activity, sanctions can lessen combatants' ability to draw on external funding and serve as a deterrent. When access to external funding for the pursuit of armed activities is reduced, combatants need to rely more heavily on the local population for resources and support. In that case, the increased reliance of combatants on the local population may compel them to strategically reduce their engagement in sexual and gender-based violence.¹⁴⁵

Signaling support for international norms and stigmatizing their violators can be easily achieved. Stigmatization by the international community has been shown to deter some behaviors. Bashar Al Assad's use of chemical weapons triggered global outrage and stigmatization of the regime, even without sanctions, which led to the regime agreeing to destroy its chemical weapons stockpiles. Regarding DRC, Margot Wallström, former Special Representative for Sexual Violence in Conflict, called Kinshasa "the rape capital of the world" in 2010, and that naming and shaming also contributed to the adoption of the FARDC action plan.¹⁴⁶ All sanctions send normative signals. The sanctions articulate a norm and stigmatize the violation of that norm,¹⁴⁷ regardless of whether the actual sanctions are properly implemented.¹⁴⁸

Sanctions do not have to successfully constrain or coerce in order to provide a clear signal.¹⁴⁹ The stigmatizing effect and power of sanctions is often underappreciated, considering their potential for broader political, economic, social, and psychological impacts on the target. A designation can cause reputational harm,¹⁵⁰ both at the country level (with repercussions on foreign direct investment, for instance) and at the individual level (affecting the individual's ability to govern or engage in commercial transactions even long after a delisting, or affecting external financial support).¹⁵¹ These impacts are hard to measure in a systematic way, but naming and shaming can happen solely based on a listing. In a statement from 2013, the Special Representative for Sexual Violence in Conflict underlined the need to shine "a more concerted spotlight on the perpetrators."¹⁵² Threatening or imposing sanctions for sexual violence can deter perpetrators,¹⁵³ send "a powerful signal to parties that perpetrate grave violations," and contribute to "greater compliance" with the signaled norms.¹⁵⁴

In conflict settings where key stakeholders are either unwilling or unable to respect international human rights and humanitarian law, the Security Council can use sanctions to compel compliance or trigger accountability.

Effective signaling requires the Security Council to react in a timely manner to violations and establish relevant designation criteria. There are cases showing that this can be done.¹⁵⁵ The quickest imposition of targeted sanctions by the Security Council was in Libya in 2011, with 11 days between the threat and the listing. These sanctions constrained the regime's resources, denying Muammar Gaddafi the possibility of financing heavy weaponry and preventing high officials from escaping by naming and shaming them and depriving them of support among Libyan elites.¹⁵⁶ Darfur is a counterexample.¹⁵⁷ The Security Council was presented with a draft resolution listing more than 30 individuals responsible for atrocities in Darfur; yet only four individuals were ultimately listed after months of negotiations. This

Box 3: The use of sanctions to enforce the IHL mechanisms of command responsibility

Sanctions can be especially effective in a climate of impunity, where the commanders or political leaders of the governmental armed forces or armed groups are unwilling or unable to implement accountability mechanisms and discipline.

In situations of armed conflict, international human rights and humanitarian law impose clear obligations to the fighting parties. Sexual violence and other specific violations against women are explicitly prohibited. There is an obligation for military commanders to prevent, stop, investigate, and punish violations. This obligation is essential to prevent a cycle of violence in which violations may become more serious and more acceptable in the eyes of those who commit them.

But what happens when military commanders do not take action to prevent or stop violations, and authorities are not willing or able to implement a justice system that fights impunity? In today's conflicts, the obligation to end sexual violence is frequently violated. Sanctions could help punish commanders tolerating rape as a practice or allowing it to be used as a weapon. The current international legal framework is sufficient in defining sexual violence as a crime and in establishing its prohibition, but enforcement of this framework is insufficient.¹⁶¹ Sanctions designation criteria alone would not directly ensure discipline within the troops, but they would create an additional legal framework with an enforcement mechanism: the individual listings and imposition of sanctions. The possibility of sanctions can be used as an incentive for the parties to control their troops and to prevent escalation of violations. Since the Akayesu decision, civilians are now also liable for IHL crimes under the theory of command responsibility. A civilian exercising de facto command over troops committing sexual violence can be prosecuted on these grounds, and the Security Council could follow this legal reasoning for the imposition of sanctions on political leaders.

Sanctions designation criteria are useful to "enforce formal norms derived from other contexts," notably when these other contexts are the Geneva Conventions and are repeatedly stated in the WPS series. Their inclusion in sanctions regimes should be formalized and automatic in order to properly work as a deterrent to violence before the commission of violations, as punitive measures after violations are committed, or at minimum as a recollection under Chapter VII of the mandatory respect of IHL.

damaged the credibility of the signaling itself. Indeed, identifying “too many, too few, or the wrong targets impacts the credibility of the measure.”¹⁵⁸ Sanctions listings are useful only if they accurately reflect the status of the threat.

We acknowledge that, both in the tolerance of sexual violence as a practice and in its weaponization, there is always an element of control exercised by military commanders and political leaders. Even the worst forms of violence can be affected by military commanders and political leaders. Their decisions to prohibit, promote, or tolerate violence, specifying against which gender and ethnic groups violence is to be committed, and guiding the timing of the acts, are all ways in which they are complicit.¹⁵⁹ It has been argued that in order to prevent sexual violence, there should be a “massive liability to commit, command or condone” those actions in conflict.¹⁶⁰ In conflict settings where key stakeholders are either unwilling or unable to respect international human rights and humanitarian law, the Security Council can use sanctions to compel compliance or trigger accountability. Box 3 focuses on the use of sanctions to enforce the IHL mechanisms of command responsibility when commanders and political leaders do not stop sexual violence.

Recommendations and Conclusions

The use of targeted sanctions triggered by designation criteria based on sexual violence is a potentially powerful tool, but could be used more effectively by the Security Council. This final section lays out a series of recommendations designed to maximize the potential of sanctions to prevent conflict-related sexual violence. These recommendations are directed at the Security Council, the Sanctions Committees, the Panel of Experts, the UN Special Representative for Sexual Violence in Conflict, and the Member States, and are summarized in Table 5.

Recommendations for the Security Council



Systematic and timely incorporation of a specific and separate criterion, with harmonized language, referring to sexual violence in all relevant sanctions regimes. Delayed inclusion of the relevant designation criteria undermines the credibility of the sanctions regimes. A systematic and timely adoption of specific criteria would put the parties to the conflict on notice, and they could be listed as soon as violations are committed. Also the language of the designation criteria currently varies across sanctions resolutions and regimes. Adopting clear and consistent language for all regimes promotes the development of legal norms and supports better understanding of the criteria by the Sanctions Committees, the Panel of Experts, and the parties to the conflict.¹⁶²



Systematic inclusion of “efforts to address sexual violence” and the “fight against impunity” in the conditions for review. The Security Council and Sanctions Committees should identify practical benchmarks and timelines for progress, which the parties would be required to reach in order to avoid future action by the committee and to trigger the lifting of sanctions. The promise of lifting or delaying sanctions should be given in exchange for progress in addressing sexual violence and fighting impunity.¹⁶³ “If sanctions are imposed as tightly as possible from the beginning and then loosened with each successive act of compliance, this creates incentives for the target to comply with the demands” of the Council.¹⁶⁴



Imposition of sanctions on responsible and relevant individuals as soon as the criterion is met, with a focus on command responsibility and stakeholders providing material support. The Council should follow up with relevant and timely designations.¹⁶⁵ Delays in implementation or tightening of sanctions reduce effectiveness.¹⁶⁶ The Council should follow the model of the ICC and focus on the most serious violations and the most serious perpetrators, notably through the concept of command responsibility.¹⁶⁷ Putting pressure on the commanders and senior leadership could lead to better control over troops.¹⁶⁸ The Council should also systematically extend the listing criteria and designations to individuals providing financial and material support.



Amendment of the procedures for facilitating listings in order to overcome the current bureaucratic impediments at the Sanctions Committee level. When the Sanctions Committees cannot reach a consensus to impose sanctions (requiring 15 votes), there should be an automatic recourse to the Council to consider a listing by resolution, which requires only nine votes without veto.¹⁶⁹



Systematic establishment of a Panel of Experts with a relevant mandate and adequate capacities. Every time a sanctions regime is imposed, a Panel of Experts should be established with a mandate to investigate and directly report human rights violations to the Council and its relevant committee. An immediate mandate would facilitate evidence-gathering and timely designations. The Security Council should also appoint more than one humanitarian expert, considering the depth of human rights violations in current sanctions regimes, appoint more women to the panels, and urge cooperation between the panel and the Special Representative for Sexual Violence in Conflict.



Adoption of a Chapter VII WPS resolution to push member states to incorporate international standards prohibiting sexual violence in their national legislation. While IHL and IHRL impose clear obligations on member states to prohibit sexual violence and protect women, states' domestic laws may be outdated or partial¹⁷⁰ and enforcement may be weak.¹⁷¹ The Security Council could look to the models of Resolutions 1373 and 1540 (addressing terrorism and nonnuclear proliferation) to speed up the incorporation of international obligations into domestic legal systems. These resolutions were both taken under Chapter VII and impose general obligations upon all member states, without targeting any particular situation, behavior, or actor.

Recommendations for the Sanctions Committees



Systematic referral of designations to the Council when facing a deadlock by consensus. In the event of a deadlock because of the consensus rule, the committees' chairs should consider referring the issue to the Security Council, following the Sudan precedent in Resolution 1672 (2006). The Council resolution might be vetoed, but the list of proposed individuals would become public.



An increase in the number of briefings by the Special Representative for Sexual Violence in Conflict. The working group on Children and Armed Conflict is more formal than the working group on WPS, as is the cooperation between the Special Representative for Children and Armed Conflict and the committees. The committees should welcome the Special Representative for Sexual Violence in Conflict for briefings on a more regular basis, and should follow her recommendations for designations.

Recommendations for the UN Department of Political Affairs



An evaluation, in the reports of the Special Representative for Sexual Violence in Conflict, of the impact of sanctions on the listed individuals and on sexual violence and impunity on the ground. This would help to inform future sanctions measures to better address sexual violence. The Special Representative should also consider systematically recommending sanctions on key individuals when they are identified.



The inclusion of information, by the Panel of Experts, on the individuals responsible for sexual violence. To the extent possible, the experts should identify responsible individuals and list their names in an annex, in order to strengthen stigmatization. This annex should be updated in every report, especially when the Sanctions Committees do not follow up on these recommendations. The experts should also refer to sexual violence more specifically in the recommendations.

Table 5: Recommendations

UN Security Council	<ul style="list-style-type: none"> • Establish a consistent framework for sexual violence as a designation criterion across all relevant regimes <ul style="list-style-type: none"> – Automatic establishment of sexual violence as an independent designation criterion in every regime – Timely adoption of sexual violence as an independent criterion – Harmonization of the language of the designation criteria referring to sexual violence – Systematic inclusion of “sexual violence” and the “fight against impunity” in the conditions for review – Timely listing of relevant individuals • Immediately empower the Panels of Experts with adequate mandates for investigation and reporting, potentially appointing more humanitarian experts • Consider adopting a Chapter VII resolution on the obligations of member states regarding sexual violence in armed conflict, in the model of Resolutions 1540 and 1373
Sanctions Committees	<ul style="list-style-type: none"> • Impose sanctions as soon as the designation criteria are met • Refer to the Security Council when there is a deadlock • Improve data transparency for the narrative summaries on the sanctions regimes website • Increase the number of meetings with Special Representative for Sexual Violence in Conflict
UN Special Representative for Sexual Violence in Conflict	<ul style="list-style-type: none"> • Include an evaluation, when feasible, of the impact of sanctions on the commission of sexual violence • Continue recommendations on the use of sanctions for the commission of sexual violence
Panel of Experts	<ul style="list-style-type: none"> • Identify the individuals responsible for sexual violence in reports and list their names in an annex • Include an evaluation, when feasible, of the impact of sanctions on the commission of sexual violence

Conclusion

Sanctions could be a valuable tool to prevent, curb, or end sexual violence in conflicts around the world. The Security Council has started to consider sexual violence more frequently when establishing sanctions regimes, but the practice shows major weaknesses and inconsistencies. The Council's approach to bringing an end to gross violations of human rights should not remain a chronicle of failed attempts and missed opportunities. Widespread sexual violence is not an inevitable part of conflict. When soldiers or armed groups use sexual violence, the Security Council can and should step up to curtail such abuses, especially when leaders are unwilling or unable to contain these major breaches of human rights. The key steps outlined here would enable the Council to adopt a more rigorous and consistent approach to fulfilling its vision of addressing threats to global peace and security. Sanctions, if properly and consistently applied, can ensure the enforcement of existing international norms, hold leaders accountable to those norms, and protect the lives of millions of women and girls living in conflict settings.

Notes

- 1 Kerry F. Crawford, *Wartime Sexual Violence* (Washington, DC: Georgetown University Press, 2017).
- 2 See notably, UN Security Council, Resolution 1820, S/RES/1820 (June 19, 2008), preamble.
- 3 Crawford, *Wartime Sexual Violence*.
- 4 Thomas Biersteker, Sue Eckert, and Marcos Tourinho, *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action* (Cambridge: Cambridge University Press, 2016).
- 5 References to human rights violations can be found in the earliest instances of the Security Council's use of sanctions, notably in Resolution 253 (1968) on Southern Rhodesia and Resolution 418 (1977) on South Africa.
- 6 Jared Genser and Bruno Stagno Ugarte, eds., *The United Nations Security Council in the Age of Human Rights* (Cambridge: Cambridge University Press, 2014).
- 7 Prosecutor v. Jean-Paul Akayesu, ICTR-96-4-T (September 2 1998), judgment (trial chamber).
- 8 Gloria Gaggioli, "Sexual Violence in Armed Conflicts: A Violation of International Human Rights and International Humanitarian Law," *International Review of the Red Cross* 96, no. 894 (2014), 503–538.
- 9 ICC, Rome Statute of the International Criminal Court, A/CONF.183/9, Article 7.
- 10 UN General Assembly, Resolution 317, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, A/RES/317 (December 2, 1949).
- 11 Prosecutor v. Bagosora, et al., ICTR-96-7 (December 18, 2008), judgment (trial chamber) para. 976.
- 12 UN Security Council, Resolution 955, Establishment of an International Tribunal and Adoption of the Statute of the Tribunal, S/RES/955 (1994), Article 4(e). Last amended by UN Security Council Resolution 1717 (October 13, 2006); Statute of the Special Court for Sierra Leone, S/2002/246 (January 16, 2002), Article 3(e); see also Prosecutor v. Milutinović et al., IT-05-87-T (February 26, 2009), judgment (trial chamber), vol. 1, para. 201.
- 13 UN General Assembly, Resolution 48/104, Declaration on the Elimination of Violence against Women, A/RES/48/104 (December 20, 1993) and UN Fourth World Conference on Women (Beijing Platform), A/CONF.177/20 (October 27, 1995); Definition of violence against women includes sexual harassment; see also UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General Recommendation No. 19: Violence against Women (1992).
- 14 Prosecutor v. Brima, Kamara, and Kanu, SCSL-04-16-T (February 22, 2008), judgment (appeals chamber).
- 15 Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06, (March 14, 2012), judgement (trial chamber); forced abortion included in acts of sexual violence committed during forced conscription of children.
- 16 Prosecutor v. Anto Furundzija, IT-95-17/1-T (December 10, 1998) judgment; convicted for the nudity and humiliation, in addition to acts of rape.
- 17 UN Secretary General, Conflict-Related Sexual Violence: Report of the Secretary-General, A/66/657-S/2012/33 (January 13, 2012).
- 18 UN Secretary General, Conflict-Related Sexual Violence; see also subsequent Secretary General reports on conflict-related sexual violence: A/67/792-S/2013/149 (January 13, 2012), S/2014/181 (March 13, 2014), S/2015/203 (March 23, 2015), S/2016/361 (April 20, 2016); S/2017/249 (April 15, 2017); see also the Reproductive Health Response in Conflict Consortium and the Inter-Agency Standing Committee Task Force on Gender and Humanitarian Assistance for definitions of sexual violence in armed conflict.
- 19 CEDAW General Recommendation No. 19.
- 20 Charlotte Lindsey-Curtet, *Women Facing War: ICRC Study on the Impact of Armed Conflict on Women*, (Geneva: International Committee of the Red Cross, 2001), 35–36; Lindsey-Curtet defines gender as "culturally expected behaviour of men and women based on roles, attitudes and values ascribed to them on the basis of their sex, whereas the term 'sex' refers to biological and physical characteristics of a person. Gender roles vary widely within and between cultures, and depend on the particular social, economic and political context."
- 21 UN Security Council, Resolution 1888, S/RES/1888 (September 30, 2009), 19.
- 22 UN Security Council, Resolution 1960, S/RES/1960 (December 16, 2010), 7.
- 23 UN Security Council, Resolution 2106, S/RES/2106 (June 24, 2013), 13.
- 24 UN Security Council, Resolution 2242, S/RES/2242 (October 13, 2015), 5.
- 25 Kerry Crawford, interview by Sophie Huve, Washington DC, November 9, 2017.
- 26 Crawford, *Wartime Sexual Violence*.
- 27 Crawford, *Wartime Sexual Violence*.
- 28 Crawford, *Wartime Sexual Violence*.

- 29 This evolution can be seen by tracking the resolutions in the sanctions regimes over the years.
- 30 UN Security Council, Resolution 2206, S/RES/2206 (March 3, 2015), 6.
- 31 UN Security Council, Resolution 2293, S/RES/2293 (June 23, 2016), 7.
- 32 UN Security Council, Resolution 2339, S/RES/2339 (January 27, 2017), 17.
- 33 Note, on the contrary, that recruiting or using child soldiers is a singled-out criterion in all four regimes.
- 34 UN Security Council, Resolution, S/RES/2174 (August 27, 2014), 4; UN Security Council, Resolution 2140, S/RES/2140 (February 26, 2014), 18.
- 35 UN Security Council, Resolution 1591, S/RES/1591, (March 29, 2005), 1(c).
- 36 This is without even considering the situations on the agenda of the Council that are not the object of a sanctions regime but that have a high level of sexual violence (such as Myanmar), or the situations with a high level of sexual violence on the Secretary General's watch list that are not on the Council's agenda.
- 37 And in subsequent resolutions: S/RES/2340 (2017), S/RES/2265 (2016), S/RES/2200 (2015).
- 38 This conclusion is based on the data regarding the listings on the Sanctions Committees website and confirmed by interviews with several political affairs officials working on the sanctions regimes (phone interviews conducted between November 14 and November 20, 2017).
- 39 UN Security Council, Resolution 1533, S/RES/1533 (March 12, 2004).
- 40 UN Security Council, Report of the Group of Experts Pursuant to Resolution 1698, S/2007/423 (July 18, 2007).
- 41 UN Security Council, Resolution 1897, S/RES/1897 (March 31, 2008), 13; this resolution further expanded the designation criteria, after recalling both thematic resolutions on children and armed conflict and on WPS in the preamble. Here, the Council linked the "serious violations of international law involving the targeting of women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement" to the threat of targeted sanctions for individuals operating in DRC.
- 42 UN Security Council, Final Report of the Group of Experts on the DRC Submitted in Accordance with Paragraph 18(d) of Security Council Resolution 1807, S/2008/773 (December 12, 2008).
- 43 UN Security Council, Final Report of the Group of Experts on the DRC Submitted in Accordance with Paragraph 6 of Security Council Resolution 1896, S/2010/596 (November 29, 2010); UN Security Council, Final report of the Group of Experts Submitted in Accordance with Paragraph 5 of Security Council Resolution 2136, S/2015/19 (January 12, 2015).
- 44 UN Security Council, Report of the Group of Experts Submitted Pursuant to Resolution 1771, S/2008/43 (February 13, 2008).
- 45 UN Security Council, Final Report of the Group of Experts on the DRC Submitted in Accordance with Paragraph 6 of Security Council Resolution 1896, S/2010/596 (November 29, 2010).
- 46 UN High Commissioner on Human Rights, Special Rapporteur on the Situation of Human Rights in the DRC, HR/00/12 (February 15, 2000).
- 47 UN Secretary General, United Nations Organization Mission in the Democratic Republic of the Congo (12th report), S/2002/1180 (October 18, 2002).
- 48 UN Secretary General, United Nations Organization Mission in the Democratic Republic of the Congo (12th report), S/2002/1180 (October 18, 2002).
- 49 Book talk with Kerry F. Crawford, "Wartime Sexual Violence: From Silence to Condemnation of a Weapon of War," James Madison University, Washington Center Public Affairs Roundtable Series, October 26, 2017.
- 50 Resolution 2293 (2016) extends the prohibition of sexual violence to all civilians, thus implicitly including men, whereas previously resolution 1807 (2008) only explicitly protected women and children.
- 51 Security Council Subsidiary Organs, DRC Sanctions Committee, sanctions list material.
- 52 These groups have been listed in the Secretary General's annual report annexes since 2009 and are seen as persistent perpetrators of violations against children. They have also been listed in the Group of Experts reports.
- 53 Najwa M. Nabti, "Increasing the Cost of Rape: Using Targeted Sanctions to Deter Sexual Violence in Armed Conflict," in *Economic Sanctions Under International Law*, eds. Ali Z. Marossi and Marisa R. Bassett (The Hague: T. M. C. Asser Press, 2015).
- 54 UN Security Council, Final Report of the Group of Experts on the Democratic Republic of the Congo S/2011/738 (December 2, 2011); UN Security Council, Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2014/42 (January 23, 2014).
- 55 UN Secretary General, Children and Armed Conflict, A/65/820-S/2011/250 (April 23, 2011).
- 56 UN Secretary General, Conflict-Related Sexual Violence, A/66/657-S/2012/33 (January 13, 2012).
- 57 UN Secretary General, Sexual Violence in Conflict, A/67/792-S/2013/149 (March 14, 2013).
- 58 In contrast, the Group of Experts notably reports sexual violence committed by the following FARDC units: 82nd battalion; 7th, 8th, 13th, and 15th integrated brigades; 1st brigade; 33rd brigade; 85th brigade; and 212th brigade.

- 59 Security Council Report, *Cross-Cutting Report on Children and Armed Conflict* (June 12, 2015), <http://www.securitycouncilreport.org/research-reports/cross-cutting-report-on-children-and-armed-conflict.php>.
- 60 Security Council Report, *Women, Peace and Security* (April 16, 2014), 32, <http://www.securitycouncilreport.org/research-reports/women-peace-and-security.php>.
- 61 Nabti, "Increasing the Cost of Rape."
- 62 Interview with a UN DPA political affairs officer, by Sophie Huve, New York, November 20, 2017.
- 63 UN Security Council, Final Report of the Panel of Experts in Accordance with Paragraph 18 (d) of Resolution 2206, S/2016/70 (January 22, 2016).
- 64 UN Security Council, Interim Report of the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206, S/2016/656 (August 21, 2015); UN Security Council, Final Report of the Panel of Experts in Accordance with Paragraph 18 (d) of Resolution 2206, S/2016/70 (January 22, 2016).
- 65 UN Security Council, Interim Report of the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206, S/2016/656 (August 21, 2015); UN Security Council, Final Report of the Panel of Experts in Accordance with Paragraph 18 (d) of Resolution 2206, S/2016/70 (January 22, 2016).
- 66 See UN Secretary General reports, notably S/2014/453 (30 June 2014), S/2014/157 (5 March 2014), S/2015/172 (10 March 2015).
- 67 2017 UN Data from UNHRC and UNOCHA.
- 68 UN Security Council, Resolution 1556, S/RES/1556 (July 30, 2004); UN Security Council, Resolution 1564, S/RES/1564 (September 18, 2004); UN Security Council, Resolution 1574, S/RES/1574 (November 19, 2004).
- 69 UN Security Council, Resolution 1591, S/RES/1591 (March 29, 2005); *Supra*, note 17 established a sanctions committee with the mandate to designate individuals "who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities" (and violate the arms embargo), in order to subject them to an assets freeze and travel ban.
- 70 Note that the listing of 2006 was the very first listing of individuals directly via a resolution of the Security Council and not via a Sanctions Committee.
- 71 UN Security Council, Report of the Panel of Experts Established Pursuant to Paragraph 3 of Resolution 1591 Concerning the Sudan, S/2006/65 (January 20, 2006).
- 72 UN Security Council, Report of the Panel of Experts Established Pursuant to Resolution 1591 Concerning the Sudan Prepared in Accordance with Paragraph 2 of Resolution 1713, S/2007/584 (October 3, 2007); UN Security Council, Report of the Panel of Experts Established Pursuant to Paragraph 3 of Resolution 1591 Concerning the Sudan, S/2006/65 (January 30, 2006); UN Security Council, Report of the Panel of Experts Established Pursuant to Resolution 1591 Concerning the Sudan, S/2009/562 (October 29, 2009); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2011/111 (March 8, 2011); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2013/79 (February 12, 2012); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2014/87 (February 11, 2014); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2015/31 (January 19, 2015); UN Security Council, Final Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2016/805 (September 22, 2016); UN Security Council, Final Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2017/22 (January 9, 2017).
- 73 UN Security Council, Report of the Panel of Experts Established Pursuant to Resolution 1591 Concerning the Sudan Prepared in Accordance with Paragraph 2 of Resolution 1713, S/2007/584 (October 3, 2007); UN Security Council, Report of the Panel of Experts Established Pursuant to Paragraph 3 of Resolution 1591 Concerning the Sudan, S/2006/65 (January 30, 2006); UN Security Council, Report of the Panel of Experts Established Pursuant to Resolution 1591 Concerning the Sudan, S/2009/562 (October 29, 2009); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2011/111 (March 8, 2011); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2013/79 (February 12, 2012); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2014/87 (February 11, 2014); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2015/31 (January 19, 2015); UN Security Council, Final Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2016/805 (September 22, 2016); UN Security Council, Final Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2017/22 (January 9, 2017).
- 74 UN Security Council, Report of the Panel of Experts Established Pursuant to Resolution 1591 Concerning the Sudan Prepared in Accordance with Paragraph 2 of Resolution 1713, S/2007/584 (October 3, 2007); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2011/111 (March 8, 2011); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2014/87 (February 11, 2014); UN Security Council, Report of the Panel of Experts on the Sudan Established Pursuant to Resolution 1591, S/2015/31 (January 19, 2015).
- 75 ICC, Rome Statute of the International Criminal Court, A/CONF.183/9, Article 1.
- 76 UN Security Council, Twenty-Fourth Report to the United Nations Security Council Pursuant to UNSCR 1593, SC/12622 (December 2013).

- 77 UN Security Council, 6974th Meeting report, S/PV.6974 (June 5, 2013), 2.
- 78 UN Security Council, Resolution 1970, S/RES/1970 (February 26, 2011), 22.
- 79 UN Security Council, Final Report of the Panel of Experts Established Pursuant to Resolution 1973 Concerning Libya, S/2014/106 (February 19, 2014), 12; UN Security Council, Final Report of the Panel of Experts Established Pursuant to Resolution 1973, S/2015/128 (February 23, 2015), 20.
- 80 UN Security Council, Final Report of the Panel of Experts on Libya Established Pursuant to Resolution 1973, S/2016/209 (March 9, 2016), 62; UN Security Council, Final Report of the Panel of Experts Established Pursuant to Resolution 1973, S/2015/128 (February 23, 2015), 57.
- 81 UN Security Council, Final Report of the Panel of Experts on Libya Established Pursuant to Resolution 1973, S/2016/209 (March 9, 2016), 19–23.
- 82 UN Security Council, Resolution 2174, S/RES/2174 (August 27, 2014).
- 83 Interview with a UN DPA political affairs officer, by Sophie Huve, New York, November 11, 2017.
- 84 Nabti, “Increasing the Cost of Rape.”
- 85 Interview with a UN DPA political affairs officer, by Sophie Huve, New York, December 4, 2017.
- 86 Interview with UN DPA political affairs officers, by Sophie Huve, New York, October 30, November 11, November 20, and December 4, 2017.
- 87 Although not exhaustive, the list of primary scholars and their work includes David Bosco, *Five to Rule Them All: The Security Council and the Making of the Modern World*; Serge Sur, *Le Conseil de sécurité dans l’après 11 septembre and Relations internationales*; David Ambrosetti, “Les négociations diplomatiques au Conseil de sécurité” in *Négociations internationales*; Alain Pellet, *La Charte des Nations Unies, Commentaire article par article*; Dario Battistella, *Théorie des relations internationales*; Olivier Corten, *Le droit contre la guerre*; Luigi Condorelli, *Le pouvoir législatif du Conseil de sécurité des Nations Unies vu à la ‘loupe Salmon’*; Delphine Placidi-Frot and Guillaume Devin, “Les évolutions de l’ONU: concurrences et intégration” in *Critique internationale and Le multilatéralisme onusien dans les politiques extérieures françaises et russe depuis 1945. Ressources et contraintes de la coopération internationale*.
- 88 Jeremy Farrall and Marie-Eve Loiselle, “The UN Security Council as Regulator and Subject of the Rule of Law: Conflict or Confluence of Interest?” in *Strengthening the Rule of Law through the UN Security Council*, eds. Jeremy Farrall and Hilary Charlesworth (New York: Routledge, 2016).
- 89 David Bosco, *Five to Rule Them All: The Security Council and the Making of the Modern World* (New York: Oxford University Press, 2009).
- 90 Thomas Biersteker, interview by Sophie Huve, Washington, DC, September 20, 2017; this is revealed by the discrepancy between the preamble language, which contains many references to human rights and condemnations of violations, and the Chapter VII language regarding human rights, which is much more cautious and limited to previously agreed language in other resolutions or other regimes.
- 91 Security Council Report, *Protection of Civilians in Armed Conflict* (May 15, 2015) and *Women, Peace and Security: Sexual Violence in Conflict and Sanctions* (April 10, 2013), available at <http://www.securitycouncilreport.org/index.php>.
- 92 Farrall and Loiselle, “The UN Security Council as Regulator and Subject of the Rule of Law.”
- 93 See notably Delphine Placidi-Frot, *Le multilatéralisme onusien*, as well as Security Council Report, *Cross-Cutting Report No. 2: Women, Peace and Security* (October 1, 2010), <http://www.securitycouncilreport.org/research-reports/lookup-c-gIKWLeMTIsG-b-6239031.php>.
- 94 Interview with Kerry F. Crawford, by Sophie Huve, Washington DC, November 9, 2017.
- 95 Crawford, *Wartime Sexual Violence*.
- 96 Interview with a UN DPA political affairs officer, by Sophie Huve, New York, November 11, 2017.
- 97 Security Council Reports on Women, Peace and Security in 2017, 2015, 2014, 2012, and 2008, available at <http://www.securitycouncilreport.org/women-peace-and-security/>.
- 98 “SanctionsApp,” Graduate Institute, Geneva, <http://sanctionsapp.com/> (accessed October 27, 2017).
- 99 Other Supportive States are Argentina, Cameroon, Chile, Colombia, Denmark, Ghana, Guinea, Ireland, Mexico, Singapore, South Africa, Tanzania, and Turkey.
- 100 Security Council Reports on Women, Peace and Security in 2017, 2015, 2014, 2012, and 2008, available at <http://www.securitycouncilreport.org/women-peace-and-security/>.
- 101 We relied on the diplomatic statements made during all of the WPS-related debates. The exact PV sources are available in the following footnotes.
- 102 UN Security Council, 6453rd Meeting Report, EU and Austria, S/PV.6453 (December 17, 2010); UN Security Council, 6948th Meeting Report, Canada, S/PV.6498 (April 17, 2013); UN Security Council, 7428th Meeting Report, Lithuania, Belgium, Luxembourg, Ireland, and South Korea, S/PV.7428 (April 15, 2015); UN Security Council, 7704th Meeting Report, Germany, EU, Hungary, and Luxembourg, S/PV.7704 (June 2, 2016).
- 103 UN Security Council, 6722nd Meeting Report, Canada, S/PV.6722 (February 23, 2012).
- 104 UN Security Council, 6948th Meeting Report, New Zealand, S/PV.6948 (April 17, 2013); UN Security Council, 7160th Meeting Report, Lithuania, S/PV.7160 (April 25, 2014).
- 105 UN Security Council, 7938th Meeting Report, France, Sweden, Italy, Costa Rica, S/PV.7938 (May 15, 2017).

- 106 Interview with a UN DPA political affairs officer, by Sophie Huve, November 20, 2017.
- 107 Thomas Biersteker, interview by Sophie Huve, Washington, DC, September 20, 2017.
- 108 Among them, India declared that “the most egregious crimes against women in times of conflict, however, have been and are committed by irregular forces, often warring against governments” (S/PV.4208, open debate on WPS). Russia and China are themselves facing instability in some regions (Chechnya and Tibet, for instance). UN Security Council, 6180th Meeting report, China, S/PV.6180 (August 7, 2001): “We are not in favor of the Security Council’s all-too-frequent use of sanctions or the threat of sanctions. The Council should exercise caution in applying sanctions in the context of fighting sexual violence.”
- 109 Interview with a UN DPA political affairs officer, by Sophie Huve, New York, November 20, 2017.
- 110 Kristen E. Boon, “UN Sanctions as Regulation,” *Chinese Journal of International Law* 15, no. 3 (September 1, 2016): 548.
- 111 Such international norms exist through the full body of conventional and customary IHL.
- 112 “The Targeted Sanctions Consortium Database,” Graduate Institute Geneva, June 2014, http://graduateinstitute.ch/home/research/centresandprogrammes/global-governance/research-projects/UN_Targeted_Sanctions/targeted-sanctions-consortium-da.html.
- 113 Thomas Biersteker, interview by Sophie Huve, Washington, DC, September 20, 2017.
- 114 Technically precedents have no legal status at the Council’s level, but states often behave as if they do.
- 115 Thomas Biersteker, interview by Sophie Huve, Washington, DC, September 20, 2017.
- 116 Interview with a UN DPA political affairs officer, by Sophie Huve, New York, November 11, 2017.
- 117 Kerry F. Crawford, interview by Sophie Huve, November 9, 2017.
- 118 Gordon Lubold, “Libyan Forces Use Rape as Weapon of War, Experts Say,” United States Institute of Peace (June 9, 2011), <https://www.usip.org/publications/2011/06/libyan-forces-use-rape-weapon-war-experts-say>.
- 119 The DRC has notably adopted an action plan to combat sexual violence, with specific training of troops and commanders on their legal obligations and the conviction of one hundred members of the DRC security forces for crimes of sexual violence in 2016.
- 120 Interview with a UN DPA political affairs officer, by Sophie Huve, New York, November 20, 2017.
- 121 Interview with a UN DPA political affairs officer, by Sophie Huve, New York, November 11, 2017.
- 122 Thomas Biersteker, interview by Sophie Huve, Washington, DC, September 20, 2017.
- 123 Jean-Marc De La Sablière, “Security Council Engagement on the Protection of Children in Armed Conflict: Progress Achieved and the Way Forward,” (June 2012), 29.
- 124 Thomas Biersteker, interview by Sophie Huve, Washington, DC, September 20, 2017.
- 125 Interviews with UN DPA political affairs officers, by Sophie Huve, New York, November 11 and 20, 2017.
- 126 UN Security Council, Resolution 2106, S/RES/2106 (June 24, 2013).
- 127 Abstentions can work as tacit approval but also tacit disapproval without wanting to veto the resolution. Sanctions are always challenged in their implementation by disobeying states or by the targets themselves. They are even more strongly challenged if the resolutions imposing them show lack of consensus and political unity within the Council. Disagreements on sanctions hurt the credibility of the Council’s threats and actions.
- 128 Based on the Special Representative for Sexual Violence in Conflict’s reports since 2006, as well as on the Panel of Experts reports for both sanctions regimes.
- 129 UN Security Council, 5344th Meeting report, S/PV.5344 (January 13, 2006).
- 130 UN Security Council, 5528th Meeting report, S/PV.5528 (September 18, 2006).
- 131 The recognition of leadership is mostly informal and sometimes difficult to measure. It depends on the leader’s diplomatic influence, its credibility in exercising leadership, its ability to weigh in on the conflict situation, and to be heard by both sides of the conflict.
- 132 David Ambrosetti and Mélanie Cathelin, “Les enjeux du leadership au Conseil de sécurité : responsabiliser ou contrôler les opérations de paix de l’ONU ?” *Revue internationale et stratégique*, no. 68 (2007), 69–77.
- 133 Lise Howard, *UN Peacekeeping in Civil Wars* (Cambridge: Cambridge University Press, 2012). The author focuses on peacekeeping, but found that the best outcomes happened when the P5’s interests were moderate. Moderate interests help the member states compromise: the P5’s interests are not so strong that any dissent could lead to a deadlock, but not so weak that the Council lacks political will.
- 134 Thomas Biersteker, interview by Sophie Huve, Washington, DC, September 20, 2017.
- 135 Russia noted the “duplicious positions” of some members, the arbitrary interpretations of recommendations of the sanctions experts, and their connection to the will to put pressure on Sudan. Russia even explicitly declared that “the responsibility for those omissions lies entirely with the American side” in 2017.
- 136 Thomas Biersteker, interview by Sophie Huve, Washington, DC, September 20, 2017.
- 137 “SanctionsApp,” Graduate Institute, Geneva, <http://sanctionsapp.com/> (accessed October 27, 2017).

- 138 "SanctionsApp," Graduate Institute, Geneva, <http://sanctionsapp.com/> (accessed October 27, 2017).
- 139 Some examples from the past can, however, illustrate where sanctions have worked. In the period from 1966 to 2000, sanctions had a significant role in South Africa's decision to abandon the apartheid regime. The imposition of sanctions against Libya led the country to cooperate with the legal systems of the United States. The sanctions against UNITA movement in Angola contributed to isolating and weakening it. Sanctions have also been used effectively to counter terrorism. Counterterrorism sanctions on individuals have significantly constrained the ability of Al Qaeda and the Taliban to operate, and a targeted charcoal ban has constrained Al Shabaab's access to finance resources. Counterproliferation sanctions have made it more difficult for some states to acquire goods that could aid the development of weapons of mass destruction. They have helped to restrict Iran's access to proliferation-sensitive materials and technologies, and, with other economic sanctions, they have been important in bringing Iran to the negotiations table. In recent conflicts, the arms embargo (and its monitoring by UN peacekeeping missions) has limited illicit arms flows to Cote d'Ivoire and Liberia. The diamond embargo in Cote d'Ivoire helped consolidate the new elected government to regain control over the production and exploitation of the diamond mines. In conflicts where armed groups have committed unspeakable atrocities against civilians, such as CAR and DRC, sanctions have increased the pressure on such groups' leaders, limiting their mobility and targeting their assets.
- 140 Thomas Biersteker, "Types of UN Targeted Sanctions and Their Effectiveness: Research Note," (Geneva: Geneva Graduate Institute, 2014).
- 141 Biersteker, Eckert, and Tourinho, *Targeted Sanctions*.
- 142 Biersteker, Eckert, and Tourinho, *Targeted Sanctions*.
- 143 "The Targeted Sanctions Consortium Database," Graduate Institute Geneva (June 2014), http://graduateinstitute.ch/home/research/centresandprogrammes/global-governance/research-projects/UN_Targeted_Sanctions/targeted-sanctions-consortium-da.html.
- 144 "The Targeted Sanctions Consortium Database," Graduate Institute Geneva (June 2014), http://graduateinstitute.ch/home/research/centresandprogrammes/global-governance/research-projects/UN_Targeted_Sanctions/targeted-sanctions-consortium-da.html.
- 145 On that point, see Jeremy Weinstein, *Inside Rebellion: The Politics of Insurgent Violence* (Cambridge: Cambridge University Press, 2006); if combatants need to draw on the local population for anything, then a strategy involving rape and enslavement can actually be costly, as the local population will not willingly cooperate.
- 146 United Nations, "Tackling sexual violence must include prevention, ending impunity – UN official," UN News (April 27, 2010), <https://news.un.org/en/story/2010/04/336662-tackling-sexual-violence-must-include-prevention-ending-impunity-un-official>.
- 147 Biersteker, Eckert, and Tourinho, *Targeted Sanctions*.
- 148 Sanctions face great challenges in implementation, which impact the effectiveness of the measures. The deficient implementation of sanctions by neighboring member states is a great impediment when the sanctions measures are expected to either coerce or constrain. Indeed, there is little coercion or constraint for an individual under a travel ban if he can still travel freely to several countries. This was the case in 1) the CAR sanctions regime, where violations of the travel ban were facilitated by the governments of Kenya, South Africa, Uganda, and Congo, and 2) the DRC sanctions regime, where Rwanda and Uganda provided support to some of the sanctioned individuals. However, despite the violations of targeted sanctions and their impact on the coercion and constraining effects, the listing can be a strong signal from the Council, and therefore fulfill its role of signaling and stigmatizing.
- 149 Thomas Biersteker, with Marcos Tourinho, "Have UN Targeted Sanctions Worked?" in *The Sanctions Enterprise: Assessing a Quarter-Century of UN Action for Peace, Security and Human Rights*, eds. Sebastian von Einsiedel and George Lopez (Cambridge: Cambridge University Press, 2017).
- 150 David S. Koller and Miriam Eckenfels-Garcia, "Using Targeted Sanctions to End Violations against Children in Armed Conflict," *Boston University International Law Journal* Vol 33, no. 1 (January 2015), 1-36.
- 151 Biersteker, Eckert, and Tourinho, *Targeted Sanctions*.
- 152 The Special Representative for Sexual Violence in Conflict noted that targeted sanctions and designation criteria are an "important aspect of deterrence," A/67/792-S/2013/149 (March 2013), 115.
- 153 UN Secretary General, Sexual Violence in Conflict, A/67/792-S/2013/149 (March 14, 2013), 11.
- 154 UN Secretary General, Children and Armed Conflict, A/66/782-S/2012/261 (April 26, 2012), 220; Moreover, the Special Representative for Children and Armed Conflict found in her meetings with non-state actors that citing the consequences of Resolution 1612, including targeted sanctions, can be a highly effective tool in obtaining commitments--as she found on her visit to CAR in May 2008.
- 155 "The Targeted Sanctions Consortium Database," Graduate Institute Geneva (June 2014), http://graduateinstitute.ch/home/research/centresandprogrammes/global-governance/research-projects/UN_Targeted_Sanctions/targeted-sanctions-consortium-da.html.
- 156 Lopez and von Einsiedel, *The Sanctions Enterprise*.
- 157 Lopez and von Einsiedel, *The Sanctions Enterprise*.
- 158 "The Targeted Sanctions Consortium Database," Graduate Institute Geneva (June 2014), http://graduateinstitute.ch/home/research/centresandprogrammes/global-governance/research-projects/UN_Targeted_Sanctions/targeted-sanctions-consortium-da.html.

- 159 Elisabeth Jean Wood, "Armed Groups and Sexual Violence: When Is Wartime Rape Rare?" *Politics & Society* 37, no. 1 (March 2009); see also Dara Kay Cohen, *Rape During Civil War* (Ithaca, New York: Cornell University Press, 2016).
- 160 UN Special Representative for Sexual Violence in Conflict, "Statement by SRSRG Zainab Hawa Bangura to the Security Council" (April 17, 2013), <http://www.un.org/sexualviolenceinconflict/statement/statement-by-srsg-zainab-hawa-bangura-to-the-security-council-17-april-2013/>.
- 161 Avory Faucette, "Improvements in the Legal Treatment of Systematic Mass Rape in Wartime," in *Conflict-Related Sexual Violence, International Law, Local Responses*, eds. Tonia St. Germain and Susan Dewey (West Hartford, CT: Kumarian Press, 2012).
- 162 De La Sablière, "Security Council Engagement on the Protection of Children in Armed Conflict," 29.
- 163 UN Security Council, Report of the Panel of Experts Established Pursuant to Resolution 1591 Concerning the Sudan Prepared in Accordance with Paragraph 2 of Resolution 1713, S/2007/584 (October 3, 2007).
- 164 Laurie Rosensweig, "United Nations Sanctions: Creating a More Effective Tool for the Enforcement of International Law," *Austrian Journal of Public and International Law* 48, no. 161 (June 1995), 178–79.
- 165 Nabti, "Increasing the Cost of Rape," 58.
- 166 *Designing United Nations Targeted Sanctions: Initial Findings of the Targeted Sanctions Consortium*, Graduate Institute Geneva (August 2012), http://www.watsoninstitute.org/pub/Designing_UN_Targeted_Sanctions_FINAL.pdf.
- 167 Dara Cohen and Elisabeth Wood note that wartime rape is not inevitable if the commanders in control of their troops can be made legally liable for patterns of sexual violence they fail to prevent. See Elisabeth Jean Wood, "Rape Is Not Inevitable in War," *Yale Journal of International Affairs* (Spring/Summer 2010).
- 168 One issue can be raised: Do these actors (governments or rebel commanders) actually have control over all the perpetrators or not? Even if they do not have total control, it is still a good start to rely on command responsibility if they have control over 10, 20, or 50 percent of the militias and soldiers. When the government is unable to control affiliated militias (such as Janjaweed in Sudan, which often operates in isolation), then there is a need for sanctions on the heads of these militias.
- 169 Nabti, "Increasing the Cost of Rape," 58; Koller and Eckenfels-Garcia, "Using Targeted Sanctions to End Violations against Children in Armed Conflict"; Daniel Strandow, *Sanctions and Civil War: Targeted Measures for Conflict Resolution* (Uppsala, Sweden: Uppsala University, 2006), 54.
- 170 Gloria Gaggioli, "Sexual Violence in Armed Conflicts: A Violation of International Human Rights and International Humanitarian Law," *International Review of the Red Cross* 96, no. 894 (2014), 503–538.
- 171 Gloria Gaggioli, "Sexual Violence in Armed Conflicts: A Violation of International Human Rights and International Humanitarian Law," *International Review of the Red Cross* 96, no. 894 (2014), 503–538; see also Charlotte Lindsey-Curtet, *Women Facing War: ICRC Study on the Impact of Armed Conflict on Women*, (Geneva: International Committee of the Red Cross, 2001), 35–36.



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