

Can the Women, Peace and Security Agenda and International Humanitarian Law Join Forces?

Emerging Findings and Promising Directions

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International humanitarian law (IHL) lies at the heart of the women, peace and security (WPS) agenda. Despite differences between the WPS agenda and IHL in terms of focus, scope, and legal force, we argue that key commonalities present opportunities both to use WPS to improve armed actors' compliance with IHL and to use IHL to strengthen WPS implementation efforts. This brief presents preliminary findings with a focus on how women's participation in state armed forces relates to combat decisions and the propensity to violate IHL.

International humanitarian law (IHL) lies at the heart of the women, peace and security (WPS) agenda. The United Nations Security Council (UNSC) resolutions that established the WPS agenda have repeatedly referenced IHL, calling upon member states to uphold the Geneva Conventions and Additional Protocols and to condemn violence against women and girls as violations of IHL. Yet the potential synergies between IHL and WPS have not been explored, either by advocates or by scholars. This brief examines potential connections between the WPS agenda and the framework of IHL—which was established decades earlier in the 1949 Geneva Conventions and the 1977 Additional Protocols.

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While the WPS agenda and IHL are in many ways very different in terms of focus, scope, and legal force, we argue that key commonalities present opportunities both to use WPS to improve armed actors' compliance with IHL and to use IHL to strengthen WPS implementation efforts.

The brief is an initial product of a research program—supported by the Government of Liechtenstein—that is exploring synergies between the WPS agenda and IHL and documenting how women's participation in state armed forces relates to combat decisions and the propensity to violate IHL.

We begin with a short overview of both IHL and WPS before outlining potential connections, focusing on the pillars of protection and participation. Figure 1 outlines the key aspects of both IHL and WPS, and highlights their respective scope and limitations.

Figure 1. Women, peace and security and international humanitarian law: Key elements and contrasts

INTERNATIONAL HUMANITARIAN LAW	WOMEN, PEACE AND SECURITY AGENDA
<ul style="list-style-type: none"> • Based on the model of formal equality • Principles of distinction, proportionality, and necessity • Protection from sexual assault by enemy forces 	<ul style="list-style-type: none"> • Pillars: participation, conflict prevention, protection, and relief and recovery • Seeks to advance women's participation in militaries • Protection against gender-based violence and sexual assault
<p>SCOPE AND LIMITATIONS</p> <ul style="list-style-type: none"> • Binding international law—from 1949 Geneva conventions and 1977 additional protocols. • Implicitly assumes that men fight and women are vulnerable—women protected when pregnant and mothers • Only applies in armed conflict 	<p>SCOPE AND LIMITATIONS</p> <ul style="list-style-type: none"> • Soft law—expressed in a series of UNSC Resolutions since 2000—not binding, no full accountability • Applies during peacetime, conflict, and post-conflict

International Humanitarian Law

IHL is the body of law regulating armed conflicts. The trigger for the application of IHL is the existence of an “armed conflict.”¹ While recognizing that war is undesirable, IHL holds that conflicts must be fought within certain legal bounds and seeks to provide protection to both combatants and civilians from the worst excesses of violence.

IHL has three core principles:

- **Distinction** requires that parties to a conflict must distinguish between civilians and combatants, as well as between civilians who are “directly participating” in hostilities and those who are not.
- **Proportionality** prohibits attacks when the anticipated harm caused to civilians would be excessive in relation to the expected military gain.
- **Necessity** allows certain actions that would cause destruction or harm when they are deemed necessary to realize legitimate military purposes, while also prohibiting attacks that are not militarily necessary.

IHL is a deeply gendered body of law—based on the centuries-old theories of Hugo Grotius and others—that considers men fighters and women victims of war.² These ideas have infused the laws



“Women shall be treated with all the regard due to their sex”

— ARTICLE 14 OF GC3

that are in force today.³ Notions of strong and combative men and weak and gentle women are evident throughout the Geneva Conventions and their commentaries. The Conventions recognize women as potential combatants, yet are also filled with references to “honour” and “modesty”—reflecting a particular view of women. The Additional Protocols in 1977 shifted these old,

gendered ideas somewhat: requirements for distinguishing civilians and combatants moved toward being based on actions, rather than the ‘role status’ of the actor. However, they still focused on conduct by armed forces, which were and remain overwhelmingly male, and therefore entrenched IHL’s gendered nature.⁴

IHL tends to paint women in one of two ways: as victims or as mothers.⁵ Out of the 42 provisions that deal with women, more than half refer specifically to protecting mothers.⁶ Even the provisions about sexual violence are arguably directed at women as men’s property. The Geneva Conventions’ provisions about rape are framed in terms of “honour,” which speaks to a view of women as belonging to their husbands or families, consistent with the ethos that prevailed up through the mid-twentieth century and is still evident in many parts of the world today. While legal understandings of sexual violence in conflict have shifted somewhat over time—in part due to the work of the Rome Statute of the International Criminal Court (ICC) and the international criminal tribunals—these underlying notions persist in the law.

The Geneva Conventions were primarily created to regulate interstate wars. Yet, since the end of World War II, conflicts within states have outnumbered conflicts between states.⁷ While men were more commonly deployed as combatants in international conflicts, the proliferation of civil wars has seen an increase in the number of female fighters. Some research suggests that women have served as combatants in up to 41 percent of rebel groups between 1979 and 2009.⁸

Equal protection?

In theory, IHL guarantees formal equality between men and women, but, in practice, deeply ingrained gender biases, and the unequal experiences of men and women in conflict, make it impossible to achieve substantive equality. The treaties' texts state that IHL should be applied without discrimination on the basis of sex, although favorable differentiation is permissible to provide groups with special protections.⁹

Feminist scholars argue that formally equal laws cannot achieve substantively equal results, given preexisting gender inequalities and the differing ways in which armed conflict affects men and women.¹⁰ IHL hardly addresses the vulnerabilities of women in conflict, other than to provide certain women (such as mothers, pregnant women, or women who are imprisoned) with specific protections. IHL's protections are largely reserved for women carrying out particular roles—such as female combatants who are prisoners of war, women who are pregnant, or those nursing small children—yet women's lives obviously go beyond these boundaries. Outside these tailored protections, IHL's protections for women remain inadequate.¹¹

Most of the provisions pertaining to women provide them with special protections. The rules around sexual violence, for example, focus on the protection of women from sexual violence, rather than on the prohibition of such acts.¹² Furthermore, IHL fails to acknowledge that men also experience sexual violence in war.¹³

Women are covered by IHL's broader protections aimed at civilians, although those rules take male civilians as their starting point and do not go far enough in recognizing the differing needs of female civilians in conflict.¹⁴ Alongside the risk of sexual and gender-based violence, female civilians often face limited freedom of movement, more care responsibilities than men, and exploitation by armed actors.¹⁵ While the law sets out protections for children, it does not explicitly differentiate between boys and girls.

As noted above, IHL's core principles of proportionality and necessity allow for unintentional harming of civilians where it is proportional to an anticipated military goal or militarily necessary.¹⁶ This erodes the potential for civilian protection.¹⁷ Recent conflicts have seen aerial bombing



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and shelling of civilian areas including schools, hospitals, and places of worship. For example, in Ukraine, both Russia-backed militants and Ukrainian government forces targeted schools using heavy artillery and mortar.¹⁸ Similarly, the expanded use of drones in Yemen, Somalia, Pakistan, and Afghanistan has led to an increase in civilian deaths. One report estimates that 19 to 34 percent of casualties from drone strikes in 2010–2012 were civilians.¹⁹ Despite these widespread violations of IHL, there is evidence – from numerous countries,²⁰ including Colombia and Iraq - to suggest that



The narrow scope of IHL – covering the actions of fighting groups against their enemies during active armed conflict – omits other times when women are endangered and require legal protection

IHL does play a role in regulating behavior and providing protection.²¹

It is notable that the Geneva Conventions' rules addressing women are explicitly less important: none of the "gender crimes" (the sexual and gender-based crimes) in the conventions are designated as "grave breaches," which confer jurisdiction and obligation on all state parties to prosecute.²² The international criminal tribunals have sought to remedy this omission by reading rape and other violations against women into the existing grave breaches.²³ However, ICC and tribunal decisions only apply in signatory countries, not the many other countries that are bound by IHL.

IHL's blind spots when it comes to women

The narrow scope of IHL—covering the actions of fighting groups against their enemies during active armed conflicts—omits other times when women are endangered and require legal protection. Blind spots include justice for the secondary effects of conflict (such as for rape survivors and their children born of rape) and everyday reproductive health care needs in detention. Two especially important overlooked areas are:

- **Sexual harassment and abuse within the military.**

With its exclusive focus on actions by enemy fighters, IHL fails to protect women from men within their own militaries or armed groups. Many state militaries around the world—including South Africa and the United States—have persistent problems with sexual abuse within their ranks.²⁴ Militaries have poor track records of responding to these breaches; complainants are labeled as unpatriotic or traitorous and accused of undermining unit cohesion.²⁵ Domestic law, state mechanisms, and military justice provisions to prevent and punish violence against women within militaries have often been inadequate, and there is no other law that adequately regulates this gap.

- **Military in non-conflict situations.**

Peacekeeping operations, domestic deployments, and so-called black site prisons are all outside the scope of IHL. Violence that does not reach the level of armed conflict is not regulated by IHL, and so it does not apply to riots, demonstrations, strikes, or sporadic or isolated acts of violence, even when the military is involved.²⁶ IHL also ceases to apply the moment a formal state of armed conflict ends, whereas security can remain a significant concern for women post-conflict.²⁷ Indeed, conflict is often “part of a continuum leading from militarism...through militarization... to episodes of ‘hot’ war, and thus to cease fire and stand-off, followed perhaps by an unsteady peace...beset by sporadic violence that prefigures a further round in the spiral.”²⁸

IHL’s legal protection for women is therefore partial at best. It fails to cover all the threats that women face in war and from militaries, ignores the fact that women also require protection from those who are not their enemy,²⁹ and excludes situations that are outside a formal conflict, even amid widespread insecurity.

Women, Peace and Security

In 2000, the UNSC adopted resolution 1325, which established the WPS agenda around four fundamental pillars: participation, prevention, protection, and relief and recovery. It urged member states to respect international law as it applies to the protection of women and girls. The UNSC resolutions that established the WPS agenda (as outlined in Table 1) acknowledge and reference IHL.

From the outset, the **protection** of women has been a priority of the WPS agenda. Resolution 1325 and subsequent resolutions tend to equate women with civilians, and they frequently refer to women as victims. Women are generally portrayed as nonviolent, peaceful, and in need of protection. In contrast, men are presumed to be natural combatants.³⁰ This reinforces the gendered division of combatants and civilians in ways that ignore the vulnerability of civilian men.³¹

Subsequent resolutions have increasingly focused on conflict-related sexual violence (CRSV) and gender-based violence. While these are real and disproportionate threats to women, this focus has been criticized as overly narrow.³² It neglects the continuum of violence experienced by women. It also ignores the broad targeting of civilians, which can disproportionately affect women—as in the aerial bombing and shelling in Syria.³³ Advocates and scholars alike have criticized the focus on CRSV, because the challenges that face women and girls in conflict include the full range of IHL and human rights violations.³⁴

Table 1. Summary of United Nations Security Council resolutions on women, peace and security

RESOLUTION AND YEAR	KEY RESOLUTION PROVISIONS	REFERENCES TO IHL
1325, 2000	Protects women in conflict and post-conflict situations; calls for the participation of women in conflict-resolution and peacebuilding processes	Calls upon states to adhere to the Geneva Conventions and Additional Protocols
1820, 2008	Prohibits sexual abuse and exploitation by UN peacekeeping forces; protects women from CRSV	Reaffirms the obligation that states have under IHL to protect women and girls
1888, 2009	Creates offices to protect against CRSV, including the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict and the women's protection advisers	Demands that states vet candidates for national armies and exclude those associated with serious violations of IHL, including sexual violence
1889, 2009	Identifies the need to increase women's participation in peace and security processes; creates a framework to track 1325 implementation	Condemns violations of international law committed against women and girls
1960, 2010	Develops CRSV monitoring, analysis, and reporting mechanisms; integrates women's protection advisers and gender advisers into field missions	Acknowledges that IHL affords general protection to women and children as civilians
2106, 2013	Condemns norms of impunity for CRSV; emphasizes the importance of women's participation in combating sexual violence	Acknowledges that IHL prohibits rape and sexual violence and that the Human Rights Due Diligence Policy is a tool to enhance IHL compliance, including by addressing CRSV
2122, 2013	Designates UN Women as the key UN actor on WPS; calls for an integrated and multi-sector approach to the provision of post-conflict services for women; establishes a review of 1325 implementation in 2015	Condemns violations of international law committed against women and girls; calls upon member states to prosecute those who violate IHL
2242, 2015	Calls for integration of WPS principles in all countries on the UNSC agenda; establishes an informal Expert Group on WPS; urges UN bodies and member states to redouble efforts to implement WPS; highlights the importance of collaboration with civil society	Welcomes states' efforts to develop national action plans to support the implementation of resolution 1325 and related IHL provisions
2467, 2019	Identifies structural gender inequality and discrimination as a root cause of sexual violence; promotes a survivor-centered approach; recognizes men and boys as potential victims of sexual violence; places responsibility for sexual violence prevention and response on member states	Notes the role of UN investigations of IHL violations; recognizes that mistreatment of survivors can violate IHL; recalls principles of international law that give the right to effective remedy for human rights violations; calls on member states to apply these principles to victims of CRSV
2493, 2019	Urges states to fully implement all WPS resolutions; calls for states to take an active role in promoting women's rights in all areas of life	N/A

The **participation** pillar of WPS calls for fully incorporating women at all levels of security institutions, including national militaries, to improve conflict prevention and resolution. A common argument in support of increasing women’s participation in armed forces, particularly for UN Peacekeeping missions, is that it will improve soldiers’ conduct.³⁵ Another underlying rationale is that it will better protect civilians, especially women and children, from sexual and gender-based violence.³⁶

Subsequent WPS resolutions have increasingly recognized the intertwined nature of participation and protection. In recent years, national governments have started to use the WPS agenda to advocate for women’s increased participation in national militaries. The 2017–2022 Canadian National Action Plan (NAP) aims to increase the share of women in the Canadian military from 15 to 25 percent and to make women available for international peace operations. Similarly, the German NAP calls for increasing the number of women delegates to international organizations, including in military contingents. This is important for overcoming entrenched gendered ideas about war and peace and the implicit hierarchy that values men as warriors and protectors.

Table 2. How IHL and WPS portray key terms and approaches

	INTERNATIONAL HUMANITARIAN LAW	WOMEN, PEACE AND SECURITY
Protection	<p>Defines protection of people caught up in war as combatants or civilians.</p> <p>Focuses largely on protection from direct attack by enemy forces.</p> <p>The protection a person is entitled to is determined by whether they are a civilian, a direct participant in hostilities, a combatant, or a former combatant.</p>	<p>Seeks to ensure that women and girls’ rights are protected and promoted in humanitarian crises and conflicts.</p> <p>This includes protection from sexual and gender-based violence.</p> <p>Emphasizes the specific protection needs of rural women, women with HIV, disabled women, and displaced women.</p>
Participation	<p>Focuses on participation in hostilities to determine the level of protection civilians receive. Civilians who “directly participate” in hostilities lose their protection from attack.</p>	<p>Ensures women’s equal participation and influence in decision-making related to the prevention and resolution of conflicts and in post-conflict public life.</p> <p>Increases meaningful participation of women as peacemakers, politicians, negotiators, mediators, peacekeepers, and humanitarian personnel</p>
Sexual violence	<p>Protects women from rape, enforced prostitution, and other forms of indecent assault.</p> <p>This idea is largely framed in terms of women’s protection, rather than prohibition of the acts.</p> <p>Sexual violence is also prohibited indirectly in IHL through bans on torture; cruel, inhuman, and degrading treatment; and outrages on personal dignity.</p>	<p>Views sexual violence as an act committed by combatants and noncombatants alike, in both conflict and post-conflict periods.</p> <p>Focuses on sexual violence committed against women and girls.</p> <p>WPS resolutions use examples of sexual violence that include rape, sexual exploitation and abuse, and sex trafficking.</p>
Gender neutrality	<p>Couched in gender-neutral language. Aside from a limited set of protections for women in specific roles (such as mothers or female prisoners of war), IHL applies in the same way to men and women.</p>	<p>Focuses largely on women and on violations that specifically target women on the basis of their gender.</p> <p>Recognizes the unique vulnerabilities of women, as well as their strengths and potential as negotiators, leaders, and agents of peace.</p>

Joining Forces: Leveraging WPS and IHL Frameworks for Better Outcomes

Despite their intertwined nature, WPS and IHL's potential synergies have not been well explored. We have identified WPS's participation and protection pillars as critical to IHL compliance, and also as the areas where IHL could advance WPS. Women's participation in political decision-making is one mechanism through which the WPS agenda could influence IHL compliance, especially when it comes to women's participation in national militaries.

Diversity improves decision-making

Evidence from the private sector about the benefits of diversity in teams and leadership suggests that women's increased participation in the military could promote improved decision-making. Diverse teams are characterized by differences in thinking styles, knowledge, skills, values, and beliefs among team members,³⁷ and research from a variety of settings shows that diverse leadership teams



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facilitate innovation and help their companies outperform the competition.³⁸ As we will show, IHL compliance is a result of good decision-making at the top levels of the military. Therefore, increasing the number of women in military leadership could improve decision-making in ways that encourage IHL compliance.

IHL compliance is a result of good decision-making. If a state follows IHL, it encourages reciprocal compliance by its adversaries, thereby improving the

odds that its own citizens and military are safe from unlawful attacks.³⁹ Conflict actors that comply with IHL also avoid public condemnation and other negative ramifications (such as prosecutions) and enjoy enhanced claims to legitimacy.⁴⁰

States' self-interest in protecting their militaries and civilian populations from attacks outside of the rules of war has created reciprocal dynamics that contribute to IHL compliance.⁴¹ For example, during the conflict in South Sudan between the government and the Sudan People's Liberation Movement/Sudan People's Liberation Army (SPLM/A), the latter signed a deed of commitment to abide by the Anti-personnel Mine Ban Convention. Two years later, the government ratified the convention, citing the previous commitment made by SPLM/A as a factor in its decision-making.⁴² This dynamic of reciprocity in compliance led to an overall increase in safety for combatants and civilians in South Sudan. The importance of reciprocity in IHL compliance also means that violating IHL exposes a state to potential retaliatory strikes. During the Bosnian civil war, for example, Bosnians were more likely to target Serbian civilians after Serbians committed atrocities against civilian Bosnians.⁴³

These are all important strategic reasons for conflict actors to comply with IHL, and therefore a team making good decisions would presumably embrace this body of law. In this way, greater diversity

through women’s integration into military leadership has the potential to encourage IHL compliance by improving the quality of decision-making.⁴⁴

Proportionality calculations under IHL are also difficult to make because they require decisions about the relative value of military targets over civilian lives. Because there is a lack of clarity on how proportionality calculations should be made, in practice decisions fall to the discretion of the actors involved. These judgements are influenced by existing military culture, institutional practices, and militarized masculinity.⁴⁵ Many military leaders will perceive targeting civilians as justified to save the lives of soldiers, meaning they will consider lower-risk, higher-casualty strikes acceptable.⁴⁶ More research is needed, but perhaps women in leadership positions would make different calculations in regard to proportionality.⁴⁸

Finally, diversity on its own is not enough. Leadership is needed to derive the most from diverse teams.⁴⁹ Innovative and challenging ideas are more likely to be considered and supported when employees with differing racial, gender, and sexual identities, as well as diverse professional experiences, have superiors who will advocate for them.⁵⁰ Where leaders encourage subordinates to focus on the good of the team and on higher-order values—which would include IHL compliance—teams are more likely to realize the benefits of diversity.

Strategies for increasing women’s participation in the military

Women’s full and effective participation in the military—especially in leadership positions—requires substantial increases in the number of women. As militaries have become increasingly gender integrated, military leaders have begun to consider whether there is a minimum threshold or critical mass of women that is necessary for successful integration.⁵¹ Such a critical mass might well be needed for women to be secure enough to challenge decisions, influence processes, and consequently improve IHL compliance.

Canada, Norway, Sweden, and Australia have all used a critical mass approach to integrating their militaries, and some have set specific targets and minimum thresholds, with related discussions about women in military leadership and retention of women.⁵² The Norwegian military, for example, set a target of 20 percent women. Yet, despite establishing compulsory military service for women in 2015, this target had not yet been reached as of October 2020. The Obama administration had sought to promote diversity and inclusion in the U.S. federal workforce, including in the armed forces.⁵³ Women now constitute 16 percent of enlisted forces and 19 percent of the officer corps—up slightly from 14.2 and 14.4 percent, respectively, since 2000.⁵⁴ However, the Trump administration obstructed efforts to increase diversity by banning transgender people from serving in the U.S. military in April 2019.⁵⁵



The U.S. Military Leadership Diversity Commission report highlights a diverse military leadership is needed to:

1. Reflect the forces they lead
 2. Increase cultural and linguistic competence
 3. Enhance situational awareness, agility, and responsiveness to current and emergent threats ⁴⁷
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Women in the Israel Defense Forces

Women have served in the Israel Defense Forces (IDF) since 1948. The number of women in combat positions has risen to more than 2,500 since 1995, when these roles—which are seen as a path to leadership—were first opened to them. Between 2013 and 2017, the number of women in the infantry more than tripled, although women still only made up 7 percent of combat ground forces in 2017.

Women have now also forged a path up the ranks: In 2018 there were 39 women serving at the rank of colonel, and the first woman was appointed commander of a flight squadron. In 2019 a woman was appointed battalion commander in a regular regiment, and in 2020 the first woman was appointed battalion commander in the artillery corps. The IDF reported that nearly half of Israel's lieutenants and captains are women, but the upper echelons are still largely a male domain. The highest-ranking female officer is a major general in charge of personnel.

However, in Israel, as elsewhere, it is too early to assess how the increasing number of women in high-ranking officer positions will affect how Israel conducts military operations vis-à-vis humanitarian law.

Expanding protection through WPS-IHL synergies

There appear to be several ways for WPS and IHL advocates and practitioners to use the synergies between the two fields to improve women's protection beyond the current focus on CRSV.

First, the WPS protection pillar's firm roots in IHL offer WPS advocates opportunities to draw on IHL principles in expanding women's protection. The IHL civilian protection principles of distinction, proportionality, and necessity mean that greater IHL compliance generally limits civilian targeting, the destruction of infrastructure, and internal displacement, which would directly improve women's safety and security. Bringing other aspects of IHL—such as humanitarian organizations' access to detainees—more explicitly into the WPS agenda and future resolutions could enable WPS to become a more effective advocacy tool to encourage IHL compliance and improve women's protection.

Second, IHL practitioners and advocates could draw on the WPS resolutions when condemning IHL violations and demanding compliance. For example, despite documenting numerous IHL violations directly and indirectly against women—including indiscriminate bombings of civilians, sexual violence, and arbitrary detention and torture—the Panel of Experts on Yemen's final report in 2020 only made

a single reference to WPS.⁵⁶ Similarly, a 2018 briefing paper by the International Commission of Jurists on IHL violations in Yemen did not make a single reference to WPS resolutions.⁵⁷ Citing WPS resolutions would enable IHL advocates to broaden their coalition in advocating for IHL compliance and the protection of women.

The expansion of WPS protection efforts would have larger benefits for all civilians in conflicts. While preventing disproportionate harm to women and girls should remain the focus and priority of the WPS protection pillar, this does not limit the potential positive effects for civilian populations

The expansion of WPS protection efforts would have larger benefits for all civilians in conflict

more broadly. Enlarging the number of potential beneficiaries beyond women and girls does not detract from the WPS agenda's value, and could indeed lead to more widespread support.

IHL tends to treat all women the same and ignore differences between them. But when WPS takes an intersectional perspective that considers race, age, and location,⁵⁸ it has emancipatory and transformative potential (although it is still criticized

for not going far enough in this regard).⁵⁹ IHL could leverage the WPS agenda's willingness to intersect gender with other markers to expand IHL's one-dimensional view of women. Giving increased consideration to which women are vulnerable to which threats could further IHL's protection agenda.

Leveraging WPS to eradicate IHL blind spots

As outlined above, IHL has gendered blind spots: specifically, violence not conducted by warring enemies and violence outside of what is considered armed conflict (with "armed conflict" itself not properly defined by the law). Unlike IHL, WPS is broader in scope and is not limited by these boundaries on actors or context. The WPS agenda's references to IHL thus enable advocates to make a case for expanding IHL's application.

The WPS agenda clearly prohibits threats—including sexual harassment and assault—facing women in the military. UNSC resolution 1888 demands that states vet candidates for national armies and exclude those who have been associated with serious violations of IHL, including sexual violence. IHL advocates and practitioners can use these WPS principles to demand vetting, accountability, and, if appropriate, exclusion and criminal prosecution of military personnel who commit IHL violations.

Feminists have long argued that the dichotomy of war and peace does not reflect the lived experience of women,⁶⁰ who suffer from violence before, during, and after conflict. Often, the formal start and end of conflict does not alter their experiences. A close examination of the nature of violence, especially intimate partner violence, highlights that there is no clear demarcation between war and peace. In Peru, women who experienced the armed conflict between the government and Sendero Luminoso (Shining Path)—especially those exposed to CRSV—were more likely to become victims of intimate partner violence years after the war had formally ended.⁶¹ A global analysis of conflicts between 1989 and 2015 shows that when war has supposedly ended but there continue to be reports of armed groups raping women, it is often a sign that war is going to return.⁶² Coupling IHL with WPS



IHL advocates could utilize UNSC resolution 1960 to call for increased monitoring and early warning systems in post-conflict situations that might reescalate into armed conflict.

could therefore ensure that IHL's protections for women continue to operate to some extent, even after the application of IHL formally terminates.

IHL advocates could utilize UNSC resolution 1960 to call for increased monitoring and early warning systems in post-conflict situations that might reescalate into armed conflict, which would help address the gendered blind spot of violence. Similarly, UNSC resolution 2467 could be drawn upon to help policymakers identify and address potentially systemic problems, including racism and

gender inequality—which exist outside of war but frequently manifest in IHL violations in war—to help prevent future violations.⁶³

Implications for policy

WPS and IHL are dynamic agendas that respond to changing circumstances and opportunities. While the actual laws of IHL are hard to change (requiring treaty-amendment processes), much development has happened through interpretation, including through the international criminal tribunals, the interpretive guidance documents from the International Committee of the Red Cross (ICRC), and advocacy and scholarly writing. The recently issued ICRC commentary is a step toward the further development of IHL—although it is neither binding nor a change to the law, but merely an interpretive tool.⁶⁴

So, too, is WPS evolving, with new Security Council resolutions being added and a dynamic community of practitioners and advocates both inside and outside of the UN system, which over time leads to new areas of emphasis and growth.

Our review suggests that there is potential to broaden the scope of the protection pillar to ensure that women and girls are safe from all forms of violence, and to use IHL to add binding force to the WPS agenda.

The synergies and connections between IHL and WPS could work at different levels and among different groups of actors. At the international level, the following steps are possible ways forward:

- In formal global arenas, most notably the UNSC, it is important to continue to highlight breaches as well as good practice. The UN Secretary-General's annual report to the UNSC on WPS and other occasions can be used to incentivize WPS implementation and IHL compliance.
- Present evidence of evolving international norms in relation to protection in tribunal arguments, and thereby in deliberation and adjudication, by drawing on the UNSC resolutions and debates on WPS.
- Increased efforts to meet commitments to increase the share of women in UN missions.

- Explicitly track the rate and nature of IHL violations as part of ongoing efforts to gauge the impacts of increased engagement of women.
- Encourage joint military training exercises between partner militaries to facilitate diffusion/ adoption of norms that encourage compliance with IHL.

At the national level, while the context varies enormously, some 86 countries now have National Action Plans in place. These are important instruments to lay out goals and commitments to WPS, including with respect to participation, prevention, and protection. NAPs can be instruments to enforce accountability, especially where implementation plans and concrete targets have been laid out.

There are also fronts where both IHL and WPS could be strengthened. For example, contexts of forced displacement—women who have had to flee, who have been displaced or disappeared, or who face adverse gendered dynamics in refugee settings—could potentially be an area for further development.

Last, but certainly not least, civil society and academia, as well as the media, play important roles in highlighting breaches and good practices. Drawing attention to standards laid out in the WPS agenda can help connect IHL with WPS to advance both. It has been argued that there is limited feminist activity dedicated specifically and exclusively to IHL, which suggests another opportunity for advocates to push for women’s human rights.⁶⁵

Likewise, WPS activists can use IHL to advocate and lobby not only for IHL compliance, but for broader progress in advancing women’s rights and freedoms. There are a number of vibrant WPS-focused civil society actors that have successfully advocated for progressive evolution of the agenda on important fronts.⁶⁶ It could be useful for civil society to become more oriented toward IHL as a tool to advance progress. This could be supported by tailored IHL training for WPS actors, as well as by the development of gender-focused IHL monitoring tools. In this way, civil society could play an important and practical role in bringing WPS and IHL together.

These preliminary findings point to potential synergies between the WPS agenda and IHL and a promising agenda for research and practitioners. Among other fronts, more work is needed to better understand how women’s participation in state armed forces can affect military decision-making and the propensity to violate IHL. As warfare continues to evolve and the use of drones and remote targeting increases, it will be crucial to understand how diversity in decision-making roles influences how war is conducted.

- ¹ While “armed conflict” is not defined in IHL, jurisprudence and scholarly writing have fleshed out the meaning of the term: see for example Nils Petter Gleditsch et al., “Armed Conflict 1946–2001: A New Dataset,” *Journal of Peace Research* 39, no. 5 (2002): 615-637; and the ICRC commentary, “The determination of the existence of an armed conflict within the meaning of Article 2(1) must be based solely on the prevailing facts demonstrating the *de facto* existence of hostilities between the belligerents, even without a declaration of war.”
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