



NEW
DIRECTIONS
IN WOMEN,
PEACE AND
SECURITY

EDITED BY
SOUMITA BASU
PAUL KIRBY
LAURA J. SHEPHERD



NEW DIRECTIONS IN WOMEN, PEACE AND SECURITY

Edited by
Soumita Basu, Paul Kirby and
Laura J. Shepherd



First published in Great Britain in 2020 by

Bristol University Press

1–9 Old Park Hill

Bristol

BS2 8BB

UK

t: +44 (0)117 954 5940

www.bristoluniversitypress.co.uk

© Bristol University Press 2020

The digital PDF version of Chapter Twelve [978-1-5292-0777-4] is available Open Access and distributed under the terms of the Creative Commons Attribution-NonCommercial 4.0 license (<http://creativecommons.org/licenses/by-nc-nd/4.0/>) which permits adaptation, alteration, reproduction and distribution for non-commercial use, without further permission provided the original work is attributed. The derivative works do not need to be licensed on the same terms

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

ISBN 978-1-5292-0774-3 hardcover

ISBN 978-1-5292-0775-0 paperback

ISBN 978-1-5292-0778-1 ePub

ISBN 978-1-5292-0777-4 ePdf

The right of Soumita Basu, Paul Kirby and Laura J. Shepherd to be identified as editors of this work has been asserted by them in accordance with the Copyright, Designs and Patents Act 1988.

All rights reserved: no part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise without the prior permission of Bristol University Press.

Every reasonable effort has been made to obtain permission to reproduce copyrighted material. If, however, anyone knows of an oversight, please contact the publisher.

The statements and opinions contained within this publication are solely those of the editors and contributors and not of The University of Bristol or Bristol University Press. The University of Bristol and Bristol University Press disclaim responsibility for any injury to persons or property resulting from any material published in this publication.

Bristol University Press works to counter discrimination on grounds of gender, race, disability, age and sexuality.

Cover design by Blu Inc

Front cover: Getty / oxygen

Printed and bound in Great Britain by CMP, Poole

Bristol University Press uses environmentally responsible print partners



Human Trafficking, Human Rights and Women, Peace and Security: The Sound of Silence

Gema Fernández Rodríguez de Liévana and Christine Chinkin

The Women, Peace and Security (WPS) agenda is rooted in international law – notably international humanitarian law, human rights and international criminal law. UNSCR 1325 specifically calls upon states to respect fully the obligations within these laws, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Subsequent WPS resolutions emphasize the need for commitment to women’s human rights and implementation of human rights law, without again referencing CEDAW until Resolution 2467 in April 2019 (UNSCR 2467, para. 18). Despite the evident association of subject matter, the first seven WPS resolutions after 1325 are surprisingly silent about trafficking in women and girls, including in armed conflict. Resolution 2467 does refer to trafficking in persons but only to ask the Security Council Counter-Terrorism Committee Executive Directorate to include in its country reports information about states’ efforts to address it (UNSCR 2467, para. 29). This does not comprehensively locate trafficking within the WPS agenda.

Since 2016, however, human trafficking has been addressed by the Council in UNSCR 2331 (2016) on trafficking in armed conflict, and UNSCR 2388 (2017) on the maintenance of international peace and security. Resolution 2331 marked the first time that the Council has addressed human trafficking and identified the existence of links between such trafficking – when committed under certain circumstances – and the maintenance of international peace and

security, for which it has primary responsibility under Article 24 of the UN Charter. The resolution text indicates that this link emerges from the implication of terrorist groups in the trafficking of women and girls in conflict-related areas and from the fact that trafficking serves as an instrument to increase the finances and power of these organized criminal groups.

Resolutions 2331 and 2388 highlight the relationship between conflict and post-conflict situations and trafficking. They aim at tackling the use of trafficking as a terrorist and a war economy tactic by terrorist groups. They operate at the interface of three UN ‘agendas’: i) CEDAW and WPS (including the work of the Special Representative of the Secretary-General on Sexual Violence in Conflict established under UNSCR 1888 in 2009); ii) the fight against trafficking in human beings, the criminalization of traffickers and the protection of victims of trafficking;¹ and iii) the Security Council’s broader agenda for the maintenance of international peace and security. In addition, these agendas have become suffused with the agenda for countering violent extremism and terrorism.

In this chapter, we discuss the tension that exists between these agendas and in particular how the securitization of WPS and human trafficking by the Security Council has diluted and fragmented the discourse of women’s human rights. We welcome the recognition of human trafficking as a threat to international peace and security but regret that the anti-trafficking resolutions fail to draw upon the frameworks for the protection of women’s human rights, which place legal obligations on states to combat violence against women, including trafficking. We argue that, as a form of gender-based violence, human trafficking is subject to the human rights regime that has evolved to combat such violence and that the human rights mechanisms should be engaged to hold states responsible for their failure to exercise due diligence to prevent, protect against and prosecute those responsible – in the widest sense – for human trafficking. Further, the incidence of human trafficking (as a form of gender-based violence) in armed conflict means that it comes naturally under the auspices of the WPS agenda. The Security Council’s silence in this regard constitutes of itself a form of violence that weakens the potential of the WPS agenda to bring structural transformation in post-conflict contexts. In agreement with the Special Rapporteur on trafficking in persons, especially women and children (SR on Trafficking) and cognisant of some of the downsides, we argue that ‘in order to ensure more efficient anti-trafficking responses, a human rights-based approach ... should be mainstreamed into all pillars of the women and peace and security

agenda' (UN Secretary-General, 2018). In turn, this would provide a new direction for the WPS agenda.

The securitization of trafficking in women and girls in times of conflict

Although the Security Council recognizes that trafficking in persons entails human rights abuses and sexual and gender-based violence, neither UNSCR 2331 nor UNSCR 2388 refer to CEDAW, other international human rights treaties, or the international legal regime that has evolved around combating such violence. The preamble to Resolution 2388 recognizes that 'trafficking in persons entails the violation or abuse of human rights' and that victims of trafficking must receive 'appropriate care, assistance and services for their physical, psychological and social recovery, rehabilitation and reintegration, in full respect of their human rights' (UNSCR 2388, Preamble). This formulation does not affirm victims' existing right to such services under human rights law, but only the more limited requirement that any such provision must be in full respect of their human rights. In the resolution's operative part this is further weakened by the omission of the words 'human rights': 'to adopt gender and age sensitive assistance, including adequate psychosocial support and health services, regardless of their participation in criminal investigations and proceedings' (UNSCR 2388, para. 13). The resolution thus falls short of recognizing human trafficking as violating women's human rights per se which would entail giving effect to the entire canon of human rights. The question remains as to how the trafficking resolutions can help to prevent human trafficking and to protect those vulnerable to being trafficked in the aftermath of conflict when they fail to explicitly reinforce the standards and language of human rights and women's rights.

There is currently legal fragmentation, whereby human rights guarantees, provisions relating to combating gender-based and sexual violence and regulation of human trafficking are found across a range of instruments. These comprise, among others, treaties, the jurisprudence of the CEDAW Committee and other human rights bodies and the Security Council resolutions on WPS and now its resolutions on human trafficking (Chinkin, 2018). By failing to incorporate the standards and the language of existing instruments and by omitting states' commitment to ensure 'the promotion and protection of human rights for all' and that 'effective measures to respond to trafficking in persons are complementary and mutually reinforcing' (UN Global Plan of Action, 2010) the Council's anti-trafficking resolutions contribute to

the fragmentation of the legal regimes and thus further fuel the tension between them. Fragmentation is problematic in that it obscures the complexities of human trafficking by placing it within the box of each particular legal regime without looking at it as a whole. It undermines the role of international human rights law in providing an effective response to the human rights violations of trafficking. Fragmentation also facilitates addressing trafficking through the criminal law, immigration and/or security lenses to the detriment of human rights guarantees.

Further, Resolutions 2331 and 2388 seem detached from the Council's own WPS agenda. They recognize that trafficking during and post-conflict can be associated with conflict-related sexual violence, thereby implicitly bringing trafficking into the prevention of sexual violence in conflict framework – the WPS agenda. The only mention of WPS, however, is a single reference in each Resolution to the then-most recent WPS resolution, UNSCR 2242 adopted in 2015, in the context of expressing 'concern that acts of sexual and gender-based violence are known to be part of the strategic objectives and ideology of certain terrorist groups' (UNSCR 2331, Preamble; UNSCR 2388, Preamble). This omission of WPS is particularly surprising because it has been acknowledged that such groups and 'hybrid criminal-terrorist networks' use 'the bodies of women and girls as a form of currency in the political economy of war' as well as a tactic of terror, recruitment and radicalization (UN Secretary-General, 2017b). The trafficking resolutions build upon the nexus between trafficking for sexual exploitation, conflict-related sexual violence and terrorism, issues which fall squarely within the WPS agenda but without such reference.

Resolutions 2331 and 2388 are clearly and narrowly focused on conflict-related trafficking – and more precisely on terrorism. They reflect the Security Council's impoverished understanding of peace as a security issue, as opposed to that envisioned by the coalition of NGOs that lobbied for the adoption of UNSCR 1325. The latter is rooted in the feminist conception of a positive peace that would create 'global conditions in which all lives are valued and are able to be lived in dignity and equality, emphatically rejecting the idea that peace is merely the absence of war' (Otto, 2016). Trafficking too is securitized, addressed in these two resolutions as a security issue rather than as one of development and human rights, including economic, social and cultural rights, unequal access to which is linked to the structural causes that heighten the vulnerability of women and girls to being trafficked, both within and outside of conflict.

The Security Council's agenda to counter terrorism and violent extremism in conflict-affected areas (within its overall responsibility

for the maintenance of international peace and security) has had several different impacts on women's rights organizing, women's rights organizations and gender equality (Duke Law, 2017). Research undertaken in conflict and post-conflict areas, as well as in those considered to be 'at risk' of terrorism and/or violent extremism, shows that women's rights defenders across the globe are frequently 'squeezed between terrorism and violent extremism on the one hand, and counter-terrorism or preventing and countering violent extremism on the other' (Duke Law, 2017, p 8). This calls for a shift in the Security Council's understanding of the underlying causes of violent extremism, terrorism and human trafficking. While these phenomena are tackled by looking solely at their ultimate manifestations without any deeper analysis of broader economic and social inequalities (including gender inequalities), the measures designed for their elimination will prove inadequate for structural transformation (Fernández, 2019).

The Council has securitized both WPS and anti-trafficking, bringing them within its agenda for preventing and countering violent extremism, including combating financing of terrorism, money laundering and corruption. By so doing, the Security Council inhibits any broader understanding relating to human rights, in particular economic and social rights, although these are deeply implicated in both gender-based violence against women and trafficking. Resolution 2331 creates a hierarchy of victims by affirming 'that victims of trafficking in persons ... and of sexual violence, committed by terrorist groups should be classified as victims of terrorism ... rendering them eligible for official support, recognition and redress available to victims of terrorism, have access to national relief and reparations programmes' (UNSCR 2331, para. 10).

Such support should be available for all trafficked persons, not just those trafficked by terrorist groups. The Security Council thus positions 'some victims as the authentic victim subject, silencing other less conventional narratives' (Henry, 2014, p 99).

Trafficking as a form of gender-based violence against women

The human rights law regime relating to gender-based violence that has evolved since the early 1990s is especially applicable to human trafficking. Trafficking in women and girls is a form of gender-based violence: 'violence that is directed against a woman because she is a woman or that affects women disproportionately' (CEDAW, 1992, para. 6). It includes psychological as well as physical and sexual harms and

deprivations of liberty, which are all especially pertinent to trafficking (CEDAW, 1992, para. 6). The CEDAW Committee has observed that poverty and unemployment increase opportunities for trafficking in women, the impact of armed conflict on prostitution, trafficking in women and sexual assault of women and the need for specific protective and punitive measures (CEDAW, 1992, paras 13–16). The UN General Assembly has explicitly affirmed that violence against women encompasses trafficking in women and forced prostitution (UN General Assembly, 1993). Despite the inclusion of trafficking in the CEDAW Convention (by way of Article 6 and its recognition of trafficking as a form of gender-based violence), understanding of trafficking in human beings as a gendered phenomenon has only been slowly accepted (ICAT, 2017).

Human trafficking affects women disproportionately in numerical terms: an estimated 79% of all detected trafficking victims are women and children, although an increasing number of men have been detected as trafficking victims and traffickers are ‘overwhelmingly male’ (UNODC, 2016). Some forms, such as trafficking for sexual exploitation, for labour exploitation in domestic service and forced marriage, are especially disproportionately experienced by women and girls and give rise to further gendered harms such as pregnancy, forced abortion and sexually transmitted diseases (Fernández and Yoshida, 2018).

Gender-based violence such as trafficking may be a cause of, or perpetuate, conflict, when it reaches a dimension and gravity amounting to gross human rights violations, serious crimes, crimes against humanity, or, when it has the appropriate nexus with conflict, war crimes. Trafficking perpetrated by criminal or armed groups undermines the rule of law, disrupts communities and causes mass displacement, thereby empowering criminal groups and facilitating their control of territory. This is also linked with the closing of safe migration routes that allows trafficking to reoccur in transit countries, fostering instability and increasing the power of groups such as Boko Haram in Nigeria, or ISIS.

Understanding trafficking in women and girls through a gender lens as a form of gender-based violence entails its recognition as discrimination within Article 1 of CEDAW: ‘Gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men’ (CEDAW, 1992, para. 1). Trafficking is rooted in gender inequalities and asymmetric power relationships and simultaneously causes further gender-based discrimination, stereotyping, violence and sexual abuse. It was one of the four key areas of focus for the mandate identified by the Special Rapporteur on Violence against Women (SR VAW, 2009). Thus,

trafficking of women and girls is not only itself a form of gender-based violence but also makes its victims vulnerable to other human rights violations, including gender-based and sexual violence such as rape, sexual abuse, forms of slavery, sexual slavery and gendered forms of persecution under refugee law. It can also amount to torture.

A state is responsible under human rights law ‘for acts and omissions of its organs and agents that constitute gender-based violence against women’, including those of officials in its executive, legislative and judicial branches (CEDAW, 2017, para. 22). CEDAW continues to be applicable in time of conflict requiring states to have ‘an effective and accessible legal and legal services framework in place to address all forms of gender-based violence against women committed by state agents’ whether such acts are committed on their territory or extraterritorially (CEDAW, 2010, paras 11–12). There are many ways in which states are complicit in trafficking, including: allowing for or creating the conditions that enable traffickers to run a billionaire business, overlooking the links between trafficking and corruption, or leaving trafficking victims vulnerable to traffickers through restrictive immigration laws or by closing safe and legal migration routes. In addition, states must exercise due diligence to prevent, investigate, prosecute and punish violence against women and pay reparations to all victims. The duty of due diligence with respect to the acts of non-state actors has been reiterated in treaty law (Inter-American, 1994, Article 7; Council of Europe, 2011, Article 5); by CEDAW in its General Recommendations 19, 28 and 35 (CEDAW, 1992; CEDAW, 2010; CEDAW, 2017); by the General Assembly (UN General Assembly 1993, Article 4 (c)); in the Beijing Platform for Action (Fourth World Conference on Women, para. 124 (b)); by the regional human rights courts (Opuz v Turkey, 2009; *González et al* (*‘Cotton Field’*) v Mexico, 2009; CWPS, 2013); and by the Commission on the Status of Women (CSW57, 2013).

The CEDAW Committee has developed further the relationship between the CEDAW Convention, human trafficking and armed conflict. In General Recommendation 30, it recommends that states parties: ‘Prevent, prosecute and punish trafficking and related human rights violations that occur under their jurisdiction ... and adopt specific protection measures for women and girls’ (CEDAW, 2013, para. 41 (a)). It also recommends the adoption of a zero-tolerance policy on trafficking which addresses national troops, peacekeeping forces, border police, immigration officials and humanitarian actors (CEDAW, 2013, para. 41 (b)). The Committee thus applies the zero-tolerance policy that the Security Council has incorporated into the WPS resolutions

with respect to international peacekeepers to the full range of relevant actors and perpetrators, including state agents (see, for example, UNSCR 1820, para. 7).

Applying human rights law and standards relating to gender-based violence directly to human trafficking would mean that states' due diligence obligations towards the prevention of trafficking, the protection of victims and prosecution of perpetrators would be triggered as soon as the state authorities 'know or ought to have known' about trafficking events taking place within its territory or jurisdiction (including extraterritorial jurisdiction, refugee camps, or camps for internally displaced persons) whether committed by public authorities or private actors regardless of the state being party to any specific anti-trafficking convention (CEDAW, 2013, para. 8).

Human trafficking in the peacetime-to-conflict continuum

The risk and incidence of human trafficking is heightened in armed conflict and post-conflict situations. The CEDAW Committee has explained that trafficking is exacerbated during and after conflict and that conflict-affected areas constitute places of origin, transit and destination for trafficking (CEDAW, 2013, para. 39; Swaine and O'Rourke, 2015, p 12). The SR on Trafficking has identified the linkage between trafficking in persons and conflict as fitting within her mandate. She has highlighted the forms and nature of trafficking related to the complex situation of conflict and focused on the gender dimensions of trafficking in conflict and post-conflict settings. She has also identified its nexus with conflict-related sexual violence and the Security Council's WPS agenda (UN Human Rights Council, 2015; 2016; 2018). In light of this understanding that trafficking in persons is so closely associated with armed conflict, preventive measures should be put in place immediately from its outset.

A particular form of trafficking in armed conflict is forced recruitment. Although it is hardly ever considered as such – even when the elements of the definition are met (Palermo Protocol, 2000, Article 3) – some states have accepted that it is exploitative, and that it may amount to trafficking (Gallagher, 2015, p 7). Recruitment for military activities primarily affects men and boys. Girls are often recruited for sexual exploitation, including forced prostitution, forced marriage and sexual slavery but also as exploitative labour in unsafe mines, as porters, 'mules' and domestic servants, and on the frontlines (Bermúdez et al, 2011; UN Secretary-General, 2017a). The continuum of gender-based

violence across peace, conflict and post-conflict (Cockburn, 2014) is echoed in the way trafficking occurs throughout the peace–conflict cycle, from pre- to post-conflict economies. Conflict often originates in, and is fundamentally related to, fights for territory, land and natural resources (Oslender, 2009; Weber, 2016; Symposium on Land in Colombia, 2009). There is a need to acknowledge the dynamics that flow between conflict-related violence, which provokes internal displacement allowing for land dispossession, and the violence that is exercised in regions that are rich in natural resources as a means to prevent populations displaced by conflict from ever returning to their territories.

Conflict-related violence is used to strip natural resources, forcibly seize land and generate displacement, due also to violence linked to economic interests related to mining and the political economy of war. Gold and other mines located in remote areas where the government lacks the capability to monitor conditions and enforce laws, give rise to illegal mining. When these mines and other extraction zones are directly controlled by criminal groups, or are in areas controlled by organized crime, there is an increased risk of trafficking of women and girls for sexual exploitation and forced labour, which further fuels the predatory war economy. These zones are witness to different forms of gender-based and sexual violence by non-state actors, including private security services hired by companies and other armed groups. For instance, research has uncovered numerous instances of trafficking for labour, sex and child labour in Colombia and Peru (Global Initiative against Transnational Organized Crime, 2016). The same research found that women employed for sexual exploitation in illegal mining areas in Colombia are routinely forced to work long hours and are unable to refuse clients or insist that clients use a condom, resulting in high rates of sexually transmitted diseases. In some cases, they are forced to consume drugs or to have abortions (Wilches Gutiérrez, 2018). There are also multiple reports of torture at the hands of clients and traffickers.

The situation of young girls who are sexually exploited and forced into sexual slavery to ‘provide for the needs’ of the miners (including those mining illegally) has been documented in many regions of Colombia (Lima, 2013). The effects of mining, including the impact on local inhabitants and the gendered violence it creates against men and women, have also been analysed, yet not institutionally tackled (Ulloa, 2016). Illegal mining networks in Latin America have led to increased violence against women and communities that specifically affect indigenous, Afro-descendant and rural women (Bermúdez, 2012;

Ulloa, 2016). In Colombia, there are examples of social movements led by women which have been formed in response to mining and its negative impacts. These movements are rooted in so-called 'territorial feminisms' which seek to highlight the linkages between the violence that is exercised towards nature and territory through large scale mineral extraction activities and the violence asserted over women's bodies.

Like other forms of gender-based violence, human trafficking does not stop when the conflict ceases. On the contrary, reports on different conflict and post-conflict settings have shown that trafficking in persons, especially in women and children, remains prevalent, facilitated by economic chaos and the destruction of social structures that provide for basic needs. Escalation of other forms of gender-based and sexual violence in post-conflict settings increases vulnerability to trafficking (CEDAW, 2013, para. 35). Gender inequalities exacerbate the exploitation of women and girls, including through exploitative marriages as a means of obtaining income for their families. The impoverished conditions in which displaced families find themselves, combined with the reduction of refugee protection and the closing of migration routes to safe countries, create the conditions for women and children being offered by their families to traffickers for a number of purposes, with a high incidence of sexual enslavement and exploitation, forced prostitution, forced marriages, 'temporary' marriages, enlistment in fighting and organ removal (Secours Catholique, 2016; Gallagher, 2015, p 16). 'Trafficking is a systemic outcome of conflict' (CSW61, 2017) and women and girls are seen as commodities who can be 'used' for whatever is needed in a given context. Where there is economic activity that involves a concentration of male workers, such as mining and other extractive industries, sexual exploitation of women and girls is profitable.

The design and implementation of post-conflict measures should protect against the risks of further forms of violence and exploitation when a 'traditional armed force' withdraws from a territory and the 'status quo' changes, leaving a vacuum for other armed groups to take control over the territory. In these situations, vulnerability to trafficking is exacerbated (Secours Catholique, 2016). For instance, experience in Central America has shown how urban violence worsened after the peace agreements, allowing organized criminal groups to expand their power and influence, contributing to an increase of trafficking (UNODC, 2015). As a consequence of trafficking in women usually being overlooked as a form of conflict-related sexual violence, prevention and protection measures are often absent or insufficiently addressed or included in peace processes and agreements. As an example, human

trafficking is mentioned only once in Colombia's Agreement to End Conflict and Build Peace, under the section on Tax Authority, together with other forms of illegal economic activity. This emphasizes that the participation of women in the design and implementation of post-conflict social and economic reordering, as spelled out in multiple WPS resolutions (see, for example, UNSCR 1889 para. 1; UNSCR 2122, para. 7), should be understood as including those with direct experience in the relevant issues, for instance trafficked persons, thereby supporting the linkage between trafficking and WPS.

Peacekeeping operations and humanitarian actions too can have negative effects, including an increase in trafficking in human beings, especially in women for sexual exploitation, as in the Balkans, when peacekeepers became implicated in trafficking (WILPF, 2012; Mendelson, 2005). Consequently, prevention of trafficking measures and a gender analysis should be mainstreamed into all policies and practices of humanitarian and peacekeeping operations.

Conflict can shape the way in which a country understands, experiences and responds to trafficking, sometimes for many years after hostilities have ceased. The extreme and often gender-based violence that takes place during conflict can set the scene for greater toleration of trafficking-related exploitation in so-called post-conflict peacetime (Gallagher, 2015, p 21). Trafficking is rarely included under the forms of conflict-related sexual violence to be addressed in planning for post-conflict reconstruction. As a consequence, trafficking victims are under-identified and the links between gender inequalities, conflict, displacement and trafficking are overlooked, including in peace processes. This leads to a missed opportunity for understanding how these dynamics work and introducing measures to combat them.

WPS and trafficking: the meanings of silence

The silence on trafficking in women and girls in the WPS resolutions remains a significant lacuna in protecting women's fundamental rights and weakens the potential of WPS to bring structural transformation in conflict and post-conflict contexts. The question arises as to whether there is any value in recognizing that, as a form of gender-based violence occurring in armed conflict, trafficking in women and girls falls within the WPS agenda. What is the 'value-added' of placing trafficking of women and girls within the framework of WPS? On the other hand, what does the silence mean? Is this resounding silence a violent one? Does the silence itself constitute violence?

There are evidently some downsides to explicitly bringing trafficking within the remit of WPS. There is the risk that this will strengthen the trend towards securitization and reduce still further the visibility of gender-based harms experienced during and post-conflict by women that are neither sexual violence committed as a tactic of war nor caused through being trafficked by terrorist or extremist groups. Another risk is overloading the WPS agenda, making implementation and allocation of adequate resources even less likely to be secured.

Nevertheless, there are a number of responses to the questions posed earlier that we consider to be significant for the future direction of WPS. One is that bringing trafficking into WPS provides for joined-up thinking across a number of different international agendas, grounded in international law and a rights-based approach, that centre on the need for prevention of gender-based violence and protection of women and girls against such violence in situations of armed conflict, displacement and post-conflict. As a form of conflict-related gender-based violence, an imminent risk of trafficking should be recognized from the outset of conflict and preventive measures automatically put in place from that time and maintained throughout the duration of the conflict and its aftermath. Further, UNSCR 2331 and UNSCR 2388 emphasize trafficking in the context of violent extremism and terrorism – notably the actions of Islamic State of Iraq and the Levant (ISIL, also known as Da’esh), and Al-Nusra Front (ANF) and associated groups and individuals (UNSCR 2331, Preamble, para. 11; UNSCR 2388, Preamble, para. 10). Understanding trafficking of women and girls in the WPS framework makes it more widely applicable to all armed conflict. The universality of human rights emphasizes state obligations towards all victims of gender-based violence in armed conflict not just those who have been trafficked in the framework of extremism or in armed conflicts that are on the agenda of the Security Council.

Another answer is that it brings trafficking of women and girls within the four pillars of WPS, which are centred on ameliorating the position of women in armed conflict and post-conflict, including as central actors as well as victims of crime, and emphasizing the importance of the empowerment of women and women’s leadership. The SR on trafficking has provided practical examples and recommendations to states on how to better integrate a human rights-based approach to trafficking into the four WPS pillars and to UN bodies, civil society organizations and other stakeholders on how to mainstream trafficking into all their areas of work relating to conflict and post-conflict settings (UN Secretary-General, 2018).

Finally, there is a need to unpack what the silence of the WPS agenda about trafficking means for women and girls who are trafficked at any time in the peace–conflict–post–conflict continuum. This silence is telling, as it sends the message that trafficking is to be dealt with as a security issue, separated from other forms of gendered violence happening during conflict, including sexual violence. This works against legal and moral coherence. As feminist scholars have argued, there is a hierarchy of crimes and hence of harms and the silencing of certain victims is of itself a form of violence (Henry, 2014, p 99). This is because the silence involves complicity in the power dynamics which uphold systems of oppression including sexism, racism, imperialism and neo-colonialism. This is why women’s participation is key to breaking the cycles of violence and silence (hooks, 1995).

It further raises a concern that women’s rights are used as an excuse for further military intervention, the application of sanctions or other coercive measures to punish those committing acts of trafficking in conflict-related areas. In this logic, women’s rights protection, including protection of trafficking victims, receives greater attention when it happens in conflict and in post-conflict areas because it can serve states’ security and countering violent extremism (CVE) agendas (Fernández, 2019). This silence is to the detriment of those who are trafficked in other contexts such as for forced labour and domestic exploitation. States’ action to fight trafficking needs to be coherent to be effective. This means it needs to reconcile and integrate the different approaches and agendas that deal with trafficking. And human rights law is the glue that can help in this task.

Acknowledgement

The authors gratefully acknowledge that this chapter has been written under the auspices of the European Research Council Advanced Grant project *A Gendered Peace*, part of the European Union’s Horizon 2020 research and innovation programme (Grant agreement No. 786494).

Note

¹ The crime control agenda is represented by the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). Criticized for its failure to adequately address victims’ rights and to fully explore the causes and consequences of human trafficking, it also fails to incorporate a gendered approach despite its title. Notwithstanding its prevalence within human trafficking debates, we do not address the crime control angle.

References

- Bermúdez, R.C., Rodríguez, T. and Roa, T. (2011) 'Mujer y Minería. Ámbitos de análisis e impactos de la minería en la vida de las mujeres. Enfoque de derechos y perspectivas de género', *Encuentro Latinoamericano Mujer y Minería*, Available from: http://desterresminees.pasc.ca/wp-content/uploads/2015/11/Bermudez-Rico-et-al-2011-Mujer_y_Mineria.pdf.
- Bermúdez, R.C. (2012) 'Impacto de los grandes proyectos mineros en Colombia sobre la vida de las mujeres', in: *Minería, Territorio y Conflicto en Colombia*, Bogotá: Universidad Nacional de Colombia, Facultad de Derecho, Ciencias Políticas y Sociales, Instituto Unidad de Investigaciones Jurídico-Sociales Gerardo Molina (UNIJUS), pp 355–370.
- CEDAW (Committee on the Elimination of Discrimination Against Women) (1992) General Recommendation No. 19, Violence against women, Available from: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3731_E.pdf.
- CEDAW (Committee on the Elimination of Discrimination Against Women) (2010) General Recommendation No. 28 on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28-12, Available from: www.refworld.org/docid/4d467ea72.html.
- CEDAW (Committee on the Elimination of Discrimination Against Women) (2013) General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30, Available from: www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf.
- CEDAW (Committee on the Elimination of Discrimination Against Women) (2017) General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19, CEDAW/C/GC/35, Available from: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf.
- Chinkin, C. (2018) 'International human rights, criminal law and the Women, Peace and Security agenda', *LSE WPS Working Paper Series*, 12, Available from: <http://blogs.lse.ac.uk/wps/2018/01/11/international-human-rights-criminal-law-and-the-women-peace-and-security-agenda-christine-chinkin-122018/>.

- Cockburn, C. (2014) 'The continuum of violence: a gender perspective on war and peace', in W. Giles and J. Hyndman (eds) *Sites of Violence: Gender and Conflict Zones*, Berkeley and Los Angeles, CA: University of California Press, pp 24–44.
- CSW57 (2013) Commission on the Status of Women, 57th session, 4–15 March, Agreed Conclusions: Elimination and prevention of all forms of violence against women and girls, Available from: www.unwomen.org/-/media/headquarters/attachments/sections/csw/57/csw57-agreedconclusions-a4-en.pdf?la=en&vs=700.
- CSW61 (2017) Commission on the Status of Women, 61st session, 13–24 March, Remarks of Maria Grazia Giammarinaro, UN SR Trafficking, Available from: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21401&LangID=E.
- Council of Europe (2011) 'Convention on preventing and combating violence against women and domestic violence', CETS No. 210 (Istanbul Convention).
- Duke Law (2018) *Tightening the Purse Strings: What Countering Terrorism Financing Costs Gender Equality and Security*, International Human Rights Clinic and Women Peacemakers Program, Available from: <https://law.duke.edu/sites/default/files/humanrights/tighteningpursestrings.pdf>.
- CWPS (Centre for Women, Peace and Security) (2013) *EIPR (Egyptian Initiative for Personal Rights) and Interights v. Egypt*, 14 March (African Commission on Human and Peoples' Rights), London: CWPS, LSE, Available from: <https://blogs.lse.ac.uk/vaw/landmark-cases/a-z-of-cases/eipr-and-interights-v-egypt/>.
- Fernández, G. (2019) 'Performing anti-trafficking: human rights, the Security Council and the disconnect with the Women, Peace and Security agenda', *LSE WPS Working Paper Series*, 20, Available from: www.lse.ac.uk/women-peace-security/assets/documents/2019/WPS20RodriguezdeLievana.pdf
- Fernández, G. and Yoshida, K. (2018) 'Human trafficking as a gendered phenomenon: CEDAW in perspective', *Immigration, Asylum and Nationality Law*, 32(1): 28–49.
- Fourth World Conference on Women (1995) Beijing Declaration and Platform for Action, UN Doc. A/CONF/177/20 Beijing.
- Gallagher, A.T. (2015) *Trafficking in Persons and Armed Conflict*, Background report prepared for the United Nations Special Rapporteur on Trafficking in persons, Available from: https://works.bepress.com/anne_gallagher/46/download/.

- Global Initiative against Transnational Organized Crime (2016) *Organized Crime and Illegally Mined Gold in Latin America*, Available from: https://arcominero.infoamazonia.org/GIATOC-OC_Illegally-Mined-Gold-in-Latin-America-3c3f978eef80083bdd8780d7c5a21f1e.pdf.
- González et al ('Cotton Field') v Mexico, 16 November 2009 (Inter-American Court of Human Rights, Series C, No. 205) (Preliminary Objection, Merits, Reparations, and Costs).
- Henry, N. (2014) 'The fixation on wartime rape, feminist critique and international criminal law', *Social and Legal Studies*, 23(1): 93–111.
- hooks, b. (1995) 'Feminism and militarism: a comment', *Women's Studies Quarterly*, 23(3/4): 58–64.
- ICAT (Inter-Agency Coordination Group against Trafficking in Persons) (2017) 'The gender dimensions of human trafficking', *Issue Brief 4*, Available from: <http://icat.network/sites/default/files/publications/documents/ICAT-IB-04-V.1.pdf>.
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women 'Convention of Belém do Pará' (1994), Available from: <http://www.oas.org/juridico/english/treaties/a-61.html>.
- Lima, J.B. (2013) *Campamentos de explotación de niñas en zonas mineras. Alrededor de las minas hay redes organizadas de trata de mujeres*, Available from: www.eltiempo.com/archivo/documento/CMS-12824463.
- Mendelson, S.E. (2005) *Barracks and Brothels: Peacekeepers and Human Trafficking in the Balkans*, Washington DC: Center for Strategic and International Studies.
- Opuz v Turkey, 9 June 2009 (European Court of Human Rights, Application no. 33401/02).
- Oslender, U. (2009) 'Colombia: old and new patterns of violence', *Socialist Register* 45: 181–198.
- Otto, D. (2016) 'Women, peace and security: a critical analysis of the Security Council's vision', *LSE WPS Working Paper Series*, 1, Available from: <http://blogs.lse.ac.uk/wps/2017/01/09/women-peace-and-security-a-critical-analysis-of-the-security-councils-vision/>.
- Palermo Protocol (2000) Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- Secours Catholique (2016) *Trafficking in Human Beings in Conflict and Post-Conflict Situations*, Available from: www.academia.edu/33968353/TRAFFICKING_IN_HUMAN_BEINGS_IN_CONFLICT_AND_POST-CONFLICT_SITUATIONS_TRAFFICKING_IN_HUMAN_BEINGS_IN_CONFLICT_AND_POST-CONFLICT_SITUATIONS?auto=download.

- SR VAW (Special Rapporteur on Violence against Women) (2009) '15 years of the United Nations Special Rapporteur on violence against women, its causes and consequences (1994–2009): a critical review', Available from: www.ohchr.org/Documents/Issues/Women/15YearReviewofVAWMandate.pdf.
- Swaine, A. and O'Rourke, C. (2015) *Guidebook on CEDAW General Recommendation No. 30 and the UN Security Council Resolutions on Women, Peace and Security*, New York: UN Women.
- Symposium on Land in Colombia (2017) 'Land rights, restitution, politics, and war in Colombia', *Journal of Agrarian Change*, 17: 733–78.
- UN General Assembly (1993) UN GA Resolution 48/104, 20 December 1993, Declaration of Elimination of Violence against Women.
- UN Global Plan of Action (2010) UN GA Resolution 64/293, 12 August 2010, United Nations Global Plan of Action to Combat Trafficking in Person.
- UN Human Rights Council (2015) Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro. Report to the Human Rights Council, UN Doc. A/HRC/29/38, 31 March.
- UN Human Rights Council (2016) Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro. Report to the General Assembly UN Doc. A/71/303, 5 August.
- UN Human Rights Council (2018) Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro, Report to the General Assembly, UN Doc. A/73/171, 17 July.
- UNODC (United Nations Office on Drugs and Crime) (2015) 'Estudio descriptivo del delito de la trata de personas que victimiza a niñas y mujeres en Medellín', [Descriptive Study on the Crime of Trafficking in Women and Girls in Medellín], Available from: www.unodc.org/documents/colombia/2015/Diciembre/cartilla_estudiodescriptivo.pdf.
- UNODC (United Nations Office on Drugs and Crime) (2016) *Global Report on Trafficking in Persons*, Available from: www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf.
- UN Secretary-General (2017a) Remarks at Ministerial Open Debate on Trafficking in Persons in Conflict Situations: Forced labour, slavery and other similar practices, Available from: www.un.org/sg/en/content/sg/speeches/2017-03-15/trafficking-persons-conflict-situations-remarks.

- UN Secretary-General (2017b) *Report of the UN Secretary-General on Conflict-Related Sexual Violence*, UN Doc. S/2017/249.
- Ulloa, A. (2016) 'Territory feminism in Latin America: defense of life against extractivism', Available from: http://nomadas.ucentral.edu.co/nomadas/pdf/nomadas_45/45-8U-Feminismos-territoriales.pdf.
- Weber, S. (2016) 'Land, conflict and transitional justice in Colombia', Available from: <https://consentido.nl/land-conflict-and-transitional-justice-colombia/>.
- Wilches Gutiérrez, J.L. (2018) 'Sexual and reproductive health in local mining contexts in Colombia', PhD Dissertation, University of Pittsburgh, Graduate School of Public Health.
- WILPF (Women's International League for Peace and Freedom) (2012) 'Human trafficking and related crimes in the context of peacekeeping: state, organization, and individual responsibilities and accountabilities', Available from: https://wilpf.org/wp-content/uploads/2014/07/Compiled.M.Rees_.Trafficking.Report.pdf.