
POWER AND DANGER: FEMINIST ENGAGEMENT WITH INTERNATIONAL LAW THROUGH THE UN SECURITY COUNCIL¹

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1.0 INTRODUCTION

The claim that feminist ‘achievements’ are now so substantial and ‘sufficiently institutionalised’ as to wield significant power in international law² has ignited debates among feminist academics and activists. Janet Halley, the chief proponent of this view, has coined the term ‘Governance Feminism’ to describe the way that feminists and feminist ideas have become ‘installed’ in legal-institutional power, most notably in the development of international criminal law aimed at prosecuting sexual violence.³ She criticises Governance Feminism for its failure to be critically self-reflective,⁴ its reliance on state-centred forms of power,⁵ its promotion of the ‘sexual-subordination’ feminism of Catharine MacKinnon,⁶ and its persistent self-representation as the ‘political underdog’.⁷ Her claim that feminism has ‘come to power’⁸ is a spectacular divergence from the familiar accounts of feminist attempts to engage with international law and its institutions, which tell a saga of ‘marginalisation’, ‘silencing’, and ‘talking to ourselves’.⁹ The

¹ My title recalls Vance Carole S (ed) *Pleasure and Danger: exploring female sexuality* Routledge and Keagan Paul Books 1984. Although this ground-breaking collection is interested in exploring the tensions between pleasure and danger in the context of feminist struggles related to women’s sexuality, the need to find a place for understanding both ‘power’ (in the pleasurable sense of achievement) and ‘danger’ (in the sense of consequences that are antithetical to feminism) is also applicable to an assessment of feminist projects in international law.

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² Halley Janet, Kotiswaran Prabha, Shamir Hila and Thomas Chantal ‘From the International to the Local in Feminist Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four Studies in Contemporary Governance Feminism’ (2006) 29 *Harvard Journal of Gender and Law* 335 at 336.

³ As above at 342–347.

⁴ Halley Janet *Split Decisions: How and Why to Take a Break from Feminism* Princeton University Press New Jersey 2006 p 29–32.

⁵ Halley et al above note 2 at 341–342.

⁶ Halley above note 4 at 29.

⁷ As above at 32.

⁸ As above at 22.

⁹ Byrnes Andrew ‘Women, Feminism and International Human Rights Law — Methodological Myopia, Fundamental Flaws or Meaningful Marginalisation? Some Current Issues’ (1992) 12 *Australian Year Book of International Law* 205; Durham Helen and Gurd Tracey (eds) *Listening to the Silences: Women and War* Brill Academic Publishers 2005; Charlesworth Hilary

provocative suggestion that feminism may now be ‘running things’,¹⁰ at least in some areas of the law, also jars with my own recent assessment that the feminist project in international law is losing ground, even as many are celebrating its victories.¹¹

I want to explore the contention that feminists now ‘walk the halls of power’ in international law,¹² in light of the Security Council’s adoption of four thematic resolutions on Women, Peace and Security.¹³ In reflecting on what these resolutions might tell us about the power of feminist ideas, I also consider the thorny question of the relationship between the normative projects of feminist activism and the scholarly projects of feminist critique.¹⁴ I wonder whether it possible to work for progressive outcomes for women, while also being deeply critical of the same institutions, laws and policies that we expect to produce those outcomes. African-American feminist Audre Lorde famously answered this question in the negative many years ago, invoking the language of the US civil rights movement, when she offered the insight that ‘the master’s tools will never dismantle the master’s house’.¹⁵ In the context of international law, Marxist China Mieville is one scholar who would agree. He argues that the danger of looking to international law for progressive change ‘risks legitimising ... the very structure of international law that critical theory has so devastatingly undermined’.¹⁶ Yet feminists have persisted with, and even multiplied, their efforts to reshape international law and its institutions in the hope that the law can make a positive contribution to the quest for women’s emancipation.

In this article, I want to pursue a number of associated questions. Can an activist be engaged with critical thinking in both law and feminism without stifling her activism or betraying her critique? Further, to what extent should feminists be concerned that the outcomes of their activism may lend ‘gender legitimacy’ to the international institutions of which they are fundamentally critical, as Mieville might warn?¹⁷ Or should scholars, like myself, critical of these Security Council resolutions, ‘slow down’ and take more time to be ‘appreciative’ of what has been achieved before ‘focussing on possible dangers and limitations’?¹⁸

‘Talking to Ourselves: Should International Lawyers Take a Break from Feminism?’ in Kouvo Sari and Pearson Zoe (eds) *Between Resistance and Compliance? Feminist Perspectives on International Law in an Era of Anxiety and Terror* (forthcoming 2010).

¹⁰ Halley above note 4 at 20.

¹¹ Otto Dianne ‘The Exile of Inclusion: Reflections on Gender Issues in International Law over the Last Decade’ (2009) 10 *Melbourne Journal of International Law* 11.

¹² Halley above note 4 at 21.

¹³ SC Res 1325 UN SCOR 4213th mtg, UN Doc S/RES/1325 (31 October 2000) (R1325); SC Res 1820 UN SCOR, 5916th mtg UN Doc S/RES/1820 (19 June 2008) (R1820); SC Res 1888 UN SCOR 6195th mtg UN Doc S/RES/1888 (30 September 2009) (R1888); and SC Res 1889 UN SCOR, 6196th mtg UN Doc S/RES/1889 (5 October 2009) (R1889).

¹⁴ See further Craven Matthew et al ‘We Are Teachers of International Law’ (2004) 17 *Leiden Journal of International Law* 363.

¹⁵ Lorde Audre ‘The Master’s Tools Will Never Dismantle the Master’s House’ in *Sister Outsider: Essays and Speeches* Cross Press Sydney 1984 p 110.

¹⁶ Mieville China *Between Equal Rights: A Marxist Theory of International Law* Haymarket Books Chicago 2005 p 299.

¹⁷ Otto Dianne ‘The Security Council’s Alliance of “Gender Legitimacy”: The symbolic capital of Resolution 1325’ in Charlesworth Hilary and Coicaud Jean-Marc (eds) *Fault Lines of International Legitimacy* Cambridge University Press Cambridge 2009 p 239.

¹⁸ Cohn Carol, Kinsella Helen and Gibbings Sheri ‘Women, Peace and Security: Resolution 1325’ (2004) *International Feminist Journal of Politics* 130 at 139.

I begin, in Part I, by taking some appreciative time to outline the institutional power that feminists and feminist ideas have gained through engagement with the Security Council. I argue that the adoption of the four resolutions on Women, Peace and Security has had many positive effects, including disrupting the Council's conservative gender script and prompting remarkable levels of institutional activity in support of the resolutions. I accept that, at least on the surface, these developments look very like the Governance Feminism that Halley describes. However, I also argue that another achievement of feminist activism associated with the resolutions has been to inspire many local and global women's movements for change, which runs counter to the charge of understanding power as 'top-down', releases the grip of sexual subordination feminism, and actively seeks to assert power as a positive goal of feminist endeavour.

In Part II, I consider the *quid pro quo* of the Security Council's embrace of feminist ideas, drawing on my earlier analysis of the first two resolutions, which led me to conclude that the feminist project was losing ground,¹⁹ and rethinking this conclusion in light of the two resolutions adopted since then. Earlier I argued that the Council has engaged selectively with feminist ideas, adopting them only in so far as they were useful for promoting its own institutional agenda. I also noted the absence of accountability mechanisms and the tendency for protective stereotypes of women to normatively re-emerge and displace more empowered representations. My conclusion was despairing about feminist engagement with power. I revisit this conclusion in light of the two subsequent resolutions and arrive at a considerably less pessimistic outlook on the state of the feminist project in international law. The more recent resolutions bear the markings of continuing feminist engagement with the Council which, because of its tenacity and multidimensionality, has managed to build on the footholds created by the earlier resolutions and slowly strengthen the feminist content of this institutional agenda.

In Part III, I return to the questions of what these resolutions tell us about feminists wielding power, the tensions between critique and activism, the dangers of institutionalisation, and the risk of legitimising an imperial and hegemonic institution like the Security Council.²⁰ I agree with Halley when she insists that successes need always to be weighed against their consequences, whether or not they were intended, although I think this has always been a hallmark of feminist theory and practice.²¹ However, unlike Halley, my goal is to bring together feminist scholarly thinking and strategic activism in a way that will advance both, rather than suggest that we need to think 'outside feminism' in order to see all of the consequences of the feminist project in law and 'wield power responsibly'.²² For me, the primary challenge raised by feminist engagement with law/power is how to continue to inject progressive politics into (originally) feminist ideas, once they have been turned to the service of the international institutions that have embraced them.

¹⁹ Otto above note 11.

²⁰ Alvarez Jose E 'Hegemonic International Law Revisited' (2003) 97 *American Journal of International Law* 873; Krisch Nico 'International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order' (2005) 16 *European Journal of International Law* 369.

²¹ See further Romero Adam P 'Methodological Descriptions: "Feminist" and "Queer" Legal Theories' in Fineman Martha Albertson, Jackson Jack E and Romero Adam P (eds) *Feminist and Queer Legal Theory* Ashgate 2009 p179 at 183.

²² Halley above note 4 at 32–33.

I do not want to counsel against the will to power, or to over-emphasise its dangers, because, after all, ‘everything is dangerous’, as Michel Foucault has observed.²³ Instead, it is important to work within the tensions between power and danger, as Carole Vance has argued in the context of women’s sexuality: ‘To focus only on pleasure and gratification [power] ignores the patriarchal structure in which women act, yet to speak only of sexual violence and oppression [danger] ... unwittingly increases the sexual terror and despair in which women live’.²⁴ We need a deeper understanding of how feminist ideas can become the tools of powerful actors (the dangers) and to find better ways to combine our thinking and experience about how this can be contested (the power) by forging stronger links between activism and critique.

2.0 THE ‘POWER’ OF FEMINIST IDEAS

The unanimous adoption of Security Council Resolution 1325 (R1325) on Women, Peace and Security in 2000,²⁵ marked the belated arrival of ‘gender mainstreaming’ in the United Nation’s (UN) primary institution of international peace and security, five years after it was embraced as a global strategy at the Fourth World Conference on Women in Beijing.²⁶ Behind the scenes, feminist anti-war advocates had worked tirelessly, in coalition with other women’s, peace and human rights nongovernmental organisations (NGOs), to promote its adoption, including by individually lobbying Council members and drafting an initial version.²⁷ To coordinate their efforts, they formed the NGO Working Group on Women, Peace and Security (NGO Working Group), which has since continued to lobby the Council to implement R1325 and follow it up with further resolutions.²⁸ At the time of its adoption, there was a lucky coincidence of supportive Council members, including the Namibian Ambassador, who sponsored R1325 during Namibia’s turn in the rotating Presidency of the Council, and the delegations from Bangladesh, Jamaica, Canada, the United Kingdom and the Netherlands.²⁹ The adoption of R1325 was widely

²³ Gordon Colin ‘Government Rationality: An Introduction’ in Burchell Graham, Gordon Colin and Miller Peter (eds) *The Foucault Effect: Studies in Governmentality* University of Chicago Press Chicago 1991 p 46.

²⁴ Vance above note 1 at 1.

²⁵ SC Res 1325 UN SCOR 4213th mtg UN Doc S/RES/1325 (31 October 2000) (R1325).

²⁶ United Nations *Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995* UN GAOR Annex 1 UN Doc A/CONF.177/20/Rev.1 (4–15 September 1995) at para 79 105 123 141 164 189 and 229 calling for ‘mainstreaming a gender perspective ... so that, before decisions are taken, an analysis is made of the effects on women and men, respectively’. See particularly, Strategic Objectives and Actions E Women and Armed Conflict at para 131–180.

²⁷ Gibbings Sherri *Governing Women, Governing Security: Governmentality, Gender-Mainstreaming and Women’s Activism at the UN* MA Thesis York University 2004 p 52–56; Cohn et al above note 18 at 130.

²⁸ The NGO Working Group on Women, Peace and Security was formed in 2000 by five NGOs: Women’s International League for Peace and Freedom (WILPF); International Alert; Amnesty International; Women’s Commission for Refugee Women and Children; and the Hague Appeal for Peace. Today there are thirteen NGOs in the coalition: See NGO Working Group on Women, Peace and Security <http://www.womenpeacesecurity.org/> at 11 February 2010.

²⁹ Interview with Felicity Hill former Director of Women’s International League for Peace and Freedom (WILPF), who was working for the UN Development Fund for Women (UNIFEM) at the time of the interview in New York on 3 May 2002 (interview notes on file with author).

welcomed by feminist scholars and activists alike, who described it as a ‘landmark resolution’ representing a ‘new, daring, and ambitious strategy for anti-war feminists’,³⁰ a ‘watershed political framework’,³¹ and a ‘significant success story’ for gender mainstreaming.³²

Without a doubt, R1325’s coverage of issues that concern women, during armed conflict and in post-conflict peace-building, is remarkably wide-ranging. One member of the NGO Working Group, the Women’s International League for Peace and Freedom (WILPF), recently described it as taking a ‘holistic approach’, which includes ‘participation, protection and prevention’.³³ Significantly, R1325 begins by urging the increased participation of women in conflict resolution and post-conflict peace-building,³⁴ endorsing women’s political participation in traditionally ‘male’ spaces. In fact, UN Secretary-General Ban Ki Moon has acknowledged the ‘novelty’ of involving those who are not direct parties to the conflict in brokering peace, as one of the major challenges presented by R1325.³⁵ The Council also expresses its willingness to ensure that its missions ‘consult’ with local women’s groups,³⁶ and urges that peace agreements ‘support’ ‘local women’s peace initiatives and indigenous processes for conflict resolution’.³⁷ In R1325’s eighteen operative paragraphs there are many other empowered representations of women that feminists can celebrate: as peacekeeping personnel, participants in peace-building, peace advocates and implementers of peace agreements, bearers of human rights, refugees and ex-combatants.³⁸ While protective gender stereotypes are also employed, casting women as victims of armed conflict, with ‘special’ needs and requiring ‘special’ measures to protect them,³⁹ they are more in the background. With an eye to the future, the Secretary-General was ‘invited’ to carry out a study on women, peace and security⁴⁰ which, when delivered two years later,⁴¹ together with a parallel study undertaken by two UNIFEM consultants,⁴² provided a dynamic context for interpretation of R1325 and confirmed the continuing importance of its implementation.

In the absence of mechanisms that would ensure implementation, the NGO Working Group pressed the Security Council for a follow-up resolution, hoping thereby to extract some kind of accountability. The Council resisted this pressure until 2008 when it adopted R1820,

³⁰ Cohn Carol ‘Mainstreaming Gender in UN Security Policy: A Path to Political Transformation?’ (2003–2004) no 204 *Boston Consortium on Gender, Security and Human Rights — Working Paper* 3–4.

³¹ Rehn Elizabeth and Sirleaf Ellen Johnson *Women, War and Peace: The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-building* UNIFEM New York 2002 p 3.

³² True Jacqui ‘Mainstreaming Gender in Global Public Policy’ (2003) 5 *International Feminist Journal of Politics* 368 at 373.

³³ Cook Sam ‘Editorial’ (September 2009) Issue no 111 *WILPF 1325 PeaceWomen E-News* <http://www.peacewomen.org/news/1325News/1325ENewsindex.html> at 11 February 2010.

³⁴ SC Res 1325 above note 13 at para 1–3.

³⁵ Report of the Secretary-General *Women, Peace and Security* S/2009/465 16 September 2009 para 71.

³⁶ SC Res 1325 above note 13 at para 15.

³⁷ As above at para 8b.

³⁸ As above at para 6 8(b) and 8(c).

³⁹ As above at para 8(a) 9 and 10.

⁴⁰ As above at para 16.

⁴¹ Study of the Secretary-General *Women, Peace and Security: Study submitted by the Secretary-General pursuant to Security Council resolution 1325 (2000)* United Nations 2002.

⁴² Rehn and Sirleaf above note 31 at 2.

which was sponsored by the US during its turn in the rotating Presidency of the Council.⁴³ In stark contrast to the first resolution, R1820 focuses narrowly on sexual violence, strongly condemning its use as a ‘tactic of war’ and demanding the ‘immediate and complete cessation’ of all sexual violence directed against civilians during armed conflict.⁴⁴ The Council expresses its ‘readiness’, ‘where necessary’, to take steps to address widespread or systematic sexual violence in situations on the agenda of the Council,⁴⁵ and spells out a number of concrete measures that should be taken to protect civilians from sexual violence.⁴⁶ Significantly, it calls for the Secretary-General to report in twelve months with an action plan for implementation, including information about prevalence and trends, strategies to minimise such violence, benchmarks for measuring progress, ‘timely, objective, accurate and reliable’ data collection and actions taken by parties to armed conflict to implement their responsibilities.⁴⁷ While R1820 takes accountability more seriously than R1325, the real moment of hope for me is its reference to the importance of ‘debunking myths that fuel sexual violence’,⁴⁸ which is an acknowledgment that sexual violence is not a ‘natural’ expression of masculinity, not even in the context of armed conflict, but is made possible by discursive social and cultural norms and practices, which can and must be changed.

The reaction to R1820, by activists and scholars, was more mixed than the warm welcome given to R1325. While some hailed it as an ‘historic achievement’⁴⁹ and a well overdue admission by the Council that sexual violence during armed conflict is a matter that falls within its purview,⁵⁰ others worried that it condensed the myriad issues associated with women and armed conflict to the single issue of women’s sexual vulnerability,⁵¹ cynically reducing the broad agenda of R1325 to the incongruous goal of making war safer for women. This resolution clearly fits into the model of ‘sexual subordination’ feminism, fixated on sexuality as the singular site of women’s oppression, that Halley is so concerned about and this was the main cause of my despair about the feminist project in international law losing ground.

Since it took eight years to achieve a follow-up resolution to R1325, it was a surprise when the Security Council adopted two further resolutions on Women, Peace and Security in the latter part of 2009. The first, R1888, also sponsored by the US, was adopted on 30 September 2009.⁵² Like R1820, its focus was on addressing sexual violence, especially when used as a ‘tactic of war’, but it departed from the conservative gender politics of R1820 by treating sexual violence more as an issue of women’s structural inequality than as the result of inherent vulnerabilities. For example, R1888 stresses the need to ensure that ‘survivors’ are ‘treated with dignity’ throughout

⁴³ SC Res 1820 above note 13.

⁴⁴ As above at para 2.

⁴⁵ As above at para 1.

⁴⁶ As above at para 3.

⁴⁷ As above at para 15.

⁴⁸ As above.

⁴⁹ Human Rights Watch *UN: Finally, a Step Toward Confronting Rape in War* Human Rights Watch Press Release 18 June 2008.

⁵⁰ PeaceWomen ‘Feature Analysis: Security Council Resolution 1820: A move to End Sexual Violence in Conflict’ (June 2008) 102 *1325 PeaceWomen E-Newsletter* 5.

⁵¹ Heathcote Gina *From Security Council Resolution 1325 to 1820* ILLAH Research Seminar Melbourne Law School 28 July 2009 (copy on file with author).

⁵² SC Res 1888 above note 13.

justice processes and receive ‘redress’ for their suffering,⁵³ and refers to the need for the ‘socio-economic reintegration’ of victims.⁵⁴ The resolution also established a number of significant accountability mechanisms, which I will outline in more detail below.

The full return of the Security Council to the broader feminist agenda of R1325 is evident in R1889,⁵⁵ sponsored by Vietnam and adopted five days after R1888. Like R1325, it commences with urging ‘further measures to improve women’s participation during all stages of peace processes’, but it then goes further by outlining some specific strategies that may be necessary, including the importance of ‘countering negative societal attitudes about women’s capacity to participate equally’.⁵⁶ The Council also expresses its intention to include provisions ‘on the promotion of gender equality and the empowerment of women’ when it establishes and reviews the mandates of all UN missions,⁵⁷ and repeatedly stresses the importance of women’s participation and empowerment in post-conflict peace-building.⁵⁸ However, the most important feminist advance in R1889 is its backing of measures that go some way towards addressing women’s structural inequality by calling for ‘concrete strategies’ to deal with the socio-economic needs of women and girls in post-conflict situations, as well as their ‘sexual and reproductive health and reproductive rights’.⁵⁹ A number of additional coordination and accountability mechanisms are also adopted,⁶⁰ which will help to ensure that the broad agenda set earlier by R1325 receives at least as much attention as the issue of sexual violence.

I agree that it is important to appreciate what has been achieved, before examining the possible dangers and limitations. Indeed, any assessment of danger must necessarily take stock of the positive aspects of the development. In my view, there are three main achievements that emerge from these four resolutions, although as three of them were only relatively recently adopted, this assessment relies primarily on the achievements of R1325. The first is new language, particularly in R1325 and R1889, that more fully recognises women as subjects of international law, enjoying autonomy and rights, which displaces, or at least reduces in importance, the protective representations of women as a ‘vulnerable group’ or as the ‘victims’ of armed conflict which had characterised the Security Council’s previous sporadic official references to women.⁶¹

The second achievement is the snowball effect of these resolutions on institutional activity, backed by the political-institutional power of the Security Council. Following the adoption of R1325, many parts of the UN system became actively engaged in developing policies and programmes associated with it and, consistent with one of Halley’s gauges of Governance Feminism, many feminists ‘experts’ found employment within the institution as a result. The

⁵³ As above at para 6.

⁵⁴ As above at para 13.

⁵⁵ SC Res 1889 above note 13.

⁵⁶ As above at para 1.

⁵⁷ As above at para 7.

⁵⁸ As above at paras 14 and 15.

⁵⁹ As above at para 10.

⁶⁰ As above at para 16–19.

⁶¹ See for example the references to ‘women, children and other vulnerable groups’ in the Security Council’s resolutions on the protection of civilians in armed conflict: SC Res 1265 UN SCOR 4046th mtg UN Doc S/RES/1264 17 September 1999; and SC Res 1296 UN SCOR 4130th mtg UN Doc S/RES/1296 19 April 2000.

Inter-Agency Network on Women and Gender Equality (IANWGE) established a Task Force on Women, Peace and Security — which includes nearly all UN agencies and works in partnership with member states and NGOs — in order to promote and coordinate the integration of gender perspectives into all the peace and security work of the UN bureaucracy. An intergovernmental group called the Friends of Women, Peace and Security was formed to support implementation of the resolutions. The Office for the Special Adviser on Gender Issues and the Advancement of Women (OSAGI) and the UN Development Fund for Women (UNIFEM) have been particularly active in promoting implementation, and the Department of Peacekeeping Operations (DPKO), overcoming its initial resistance, created the position of Gender Adviser in 2003. Also in 2003, the General Assembly adopted a resolution on women's participation in conflict resolution and peace processes which refers to R1325,⁶² giving it the support of the UN's most 'democratic' forum. The resolutions have also enabled continuing interaction between feminist activists and Council members through annual Arria Formulas⁶³ and thematic open debates marking the anniversaries of their adoption, as well as occasional roundtables and other opportunities for informal interaction.⁶⁴ All of this institutional activity has created footholds for feminist ideas within the UN, which can serve as vantage points from which further supportive institutional developments may be launched.

Thirdly, the resolutions on Women, Peace and Security are an instructive example of how formal institutional affirmation of women's participation and rights can be a powerful organising tool for informal local and international women's networks and movements, creating constituencies outside institutional control that are eager to act as a pressure on the UN system to influence its policies and practices and hold its organs and committees to account.⁶⁵ The explicit recognition of the importance of local and international women's groups by R1325⁶⁶ has been used by many local women's groups as a lever to garner official support for their local projects.⁶⁷ To facilitate this process, the NGO Working Group has coordinated the translation of R1325

⁶² GA Res 58/142 (2004) recalls Resolution 1325 in its preamble and urges the increased participation of women in conflict resolution and peace processes at para 3h.

⁶³ Arria Formula meetings were initiated in 1993 by the Venezuelan Ambassador to the UN, Diego Arria. They are an informal arrangement that allows the Security Council to be briefed, in private, by NGOs on a variety of issues on the Council's agenda. 'Arrias' have been held more frequently since 1999 and are held annually to mark the anniversary of the adoption of R1325.

⁶⁴ For example, the Security Council held an Open Debate on Gender, Conflict and Peacekeeping on 25 July 2002, and Open Debates on Women, Peace and Security on 28–29 October 2002, 29 October 2003, and 28 October 2004. The Council has also held a number of roundtables including 'Towards International Peace and Human Security: Advancing Prevention, Participation and Protection in the Work of the Security Council' on 27 January 2004; and 'Peace Support Operations: Consolidating Progress and Closing Gaps in the Implementation of UNSC Resolution 1324' on 1 July 2004.

⁶⁵ The Convention on the Elimination of Discrimination Against Women (CEDAW) and the work of the CEDAW Committee provides another example of the global networks of women's NGOs that institutional developments can encourage and link. See Dairiam Shanthi 'From Global to Local: The Involvement of NGOs' in Schopp-Schilling Hanna Beata (ed) *The Circle of Empowerment: Twenty-Five Years of the UN Committee on the Elimination of Discrimination Against Women* The Feminist Press at CUNY New York 2007 p 313.

⁶⁶ SC Res 1325 above note 13 at paras 8(b) and 15.

⁶⁷ For further information about all these efforts see *PeaceWomen* (WILPF) <http://www.peacewomen.org/> at 11 February 2010 and UNIFEM's Portal on Women, Peace and Security <http://www.womenwarpeace.org/> at 11 February 2010.

into 100 languages, at my last count,⁶⁸ turning it into a creative feminist organising tool. Many NGOs have lobbied their governments to adopt national action plans for the implementation of R1325⁶⁹ and, by September 2009, the Secretary-General reported they were in place in 16 countries.⁷⁰ The resolution has been used by local women's NGOs to press UN agencies and partners to be more responsive to the needs of women as, for example, in the occupied Palestinian territories, where R1325 was used to persuade the UN Relief and Works Agency (UNRWA) to adopt a new standard of action to address the humanitarian emergency.⁷¹ Many innovative community projects have also resulted from the strategic use of R1325, including a women's support network spanning Kosovo, Macedonia and Albania, and women's community media in Melanesia.⁷² Feminist activists have breathed life into these resolutions, opening seductive new spaces for feminist engagement with power.

The institutional achievements that have flowed from the adoption of these Security Council resolutions conform in a number of respects with the prognosis of Governance Feminism. First, by focusing on the superpower-controlled Council as a primary site of feminist intervention, the NGO Working Group does appear to understand power as top-down and coercive. This is further borne out by those activists who have characterised the resolutions as a women's 'manifesto' that is legally 'binding' on the Council.⁷³ Secondly, the influence of subordination-feminism is everywhere apparent, particularly in R1820 but also in the obdurate resort to protective representations of women in the context of sexual violence in all three of the other resolutions. Thirdly, while the spread of feminist ideas through the UN as a result of the adoption of these resolutions has been significant, those feminists directly involved remain more likely to describe feminism as the 'underdog' (a description for which I have some sympathy), than think about what this might mean in terms of feminists 'wielding power'.

However, what the Governance Feminist analysis fails to take into account are the effects of the resolutions outside the formal systems of the UN. Arguably their most noteworthy achievements have been their use by women's groups in post-conflict societies to pursue their local projects, and their deployment by feminist, human rights and peace NGOs to forge transnational networks, creating the impetus and support for women to assert the importance of their direct participation in the traditionally 'male' spaces of decision-making associated with conflict resolution and peace building. These achievements rely on a productive understanding of power that is 'bottom-up'. They loosen the grip of subordination feminism on the feminist imaginary, as it is given content by the diverse women and men (including feminists) directly

⁶⁸ *PeaceWomen* <http://www.peacewomen.org/1325inTranslation/index.html> at 23 February 2010.

⁶⁹ de Vries Lindestam Gunilla *UN Security Council Resolution 1325 (2000) on Women, Peace and Security: Making It Work* The Collegium for Development Studies Uppsala 2005.

⁷⁰ UN Secretary-General *Report of the Secretary-General on Women, Peace and Security* UN Doc S/2009/465 (16 September 2009) para 49.

⁷¹ Sondergaard Elna and Strand Trude 'UN Security Council Resolution 1325, Refugee Women in the Occupied Palestinian Territory: UNRWA's Efforts' in Aharoni Sarai and Deeb Rula (eds) *Where Are All the Women? UN Security Council Resolution 1325: Gender Perspectives of the Israeli-Palestinian Conflict* 2003 p 7 <http://www.peacewomen.org/resources/OPT/Ishallsha1325Report2003.pdf> at 2 March 2010.

⁷² Cohn Carol 'Feminist Peacemaking' (2004) 21(5) *The Women's Review of Books* 8 at 9.

⁷³ Cohn Kinsella and Gibbins above note 18 at 132.

affected by armed conflict. These achievements also present an ongoing challenge to the institutional control of feminist ideas by reinvesting those ideas with feminist politics. Before turning to a discussion of what lessons for feminist activism and critique can be drawn from these achievements, it is necessary to consider the dangers to feminist ideas posed by this engagement with the Council.

3.0 THE DANGERS OF FEMINIST ENGAGEMENT WITH INSTITUTIONAL POWER

In my earlier assessment of the first two Security Council resolutions, I argued that the resulting spread of feminist ideas had come at some cost to the emancipatory aspirations of feminist theory and practice.⁷⁴ On the negative side of the ledger I counted, first, a pattern of selective engagement with feminist ideas as they are instrumentalised to serve institutional purposes; second, an absence of strong accountability mechanisms, even as the pressure for accountability grows; and third, the tendency for protective stereotypes of women to normatively re-emerge following an initial flirtation with more empowered representations, as sexual violence suffered by women is given disproportionate attention. I will briefly recount how these dangers are evident in R1325 and R1820, and then reconsider them in light of the two more recent resolutions. I conclude that, while the dangers remain real and the costs to the feminist project can be substantial, continuing engagement of feminist activists with the institution can ameliorate some of the dangers and revive the feminist political content of official language and commitments, despite the corrosive effects of institutional instrumentalisation.

3.1 Danger 1: Selective Engagement with Feminist Ideas

Although R1325 gives the appearance of comprehensiveness, from a feminist perspective there are at least three loud silences, which illustrate the selectivity of the Council's embrace of feminist ideas and raise the question as to whether they remain 'feminist' ideas. The first is the absence of any reference to addressing the structural causes of women's inequality, like women's economic marginalisation, which must be addressed before the rhetoric of participation has any hope of translating into practice.⁷⁵ As experience has often shown, in the absence of change in the broader social hierarchies of gender, women need to cross to the 'male' side of gendered traditions if they are to be taken seriously in traditionally male spheres, which distances them from other women and makes it impossible to present alternative perspectives.⁷⁶ To get beyond tokenistic

⁷⁴ Otto above note 11.

⁷⁵ Charlesworth Hilary and Wood Mary "Mainstreaming Gender" in *International Peace and Security: The Case of East Timor* (2001) 26 *Yale Journal of International Law* 343; Chinkin Christine 'Gender, Human Rights and Peace Agreements' (2003) 18 *Ohio State Journal on Dispute Resolution* 867.

⁷⁶ Charles Laurie L *Intimate Colonialism: Head, Heart and Body in West African Development Work* Left Coast Press California 2007 p 61.

participation, the Security Council needs to embrace an agenda of women's substantive equality, in order to fundamentally challenge the dualistic gender script of women's vulnerability and need for male/military protection.⁷⁷ Yet the Council has severed its gender mainstreaming project from the goal of substantive equality, which puts it in the company of many other international institutions that have divested feminist ideas of their political content in the process of institutionalisation.⁷⁸

The second silence in R1325 is its treatment of conflict 'prevention', which is mentioned only once in the context of increasing the representation of women in existing mechanisms aimed at prevention.⁷⁹ Yet the primary goal of women's peace movements for at least the last century,⁸⁰ and arguably for millennia if we consider Aristophanes' chronicle of *Lysistrata*,⁸¹ has been the total elimination of armed conflict, which clearly requires more fundamental change than merely enhancing women's participation in the existing system. The Beijing Platform for Action, for example, emphasises the promotion of non-violent forms of conflict resolution⁸² and fostering a culture of peace.⁸³ Yet neither of these goals are mentioned in R1325, which is firmly focussed on replicating (western) militarised statecraft.

The third and most edifying omission in R1325 is its failure to make any reference to the goal of general disarmament,⁸⁴ another long-standing objective of women's peace movements and a necessary element in conflict prevention. This omission leaves the Council's 'hard' Chapter VII enforcement powers insulated from the (feminising) influence of R1325, and compounds the conspiracy of silence about the Council's own responsibilities under the UN Charter to regulate weapons in order to ensure 'the least diversion for armaments of the world's human and economic resources'.⁸⁵

In sum, a close reading of the text of R1325 reveals that the *quid pro quo* for the Security Council's endorsement of women's participation in peacemaking and peace-building, and its increased accessibility to the NGO Working Group and local women's organisations, is the failure to address the structural nature of women's inequality and the silencing of feminist critiques of militarism. As Sheri Gibbings aptly concludes, '[t]he route to peace and ending war in this approach was no longer a reduction in military spending but the integration of women and a

⁷⁷ Otto Dianne 'A Sign of "Weakness"? Disrupting Gender Certainties in the Implementation of Security Council Resolution 1325' (2006) 13 *Michigan Journal of Gender and Law* 113 at 122–3.

⁷⁸ Baden Sally and Goetz Anne Marie 'Who Needs [Sex] When You Can Have [Gender]? Conflicting Discourses on Gender at Beijing' in Jackson Cecile and Pearson Ruth (eds) *Feminist Visions of Development: Gender Analysis and Policy* Routledge Oxfordshire 1998 p 19 at 24–5.

⁷⁹ SC Res 1325 above note 13 at para 1.

⁸⁰ Costin Lela B 'Feminism, Pacificism, Internationalism and the 1915 International Congress of Women' (1982) 5 *Women's Studies International Forum* 301.

⁸¹ See for example Aristophanes 'Lysistrata' in Oates Whitney Jennings and Murphy Charles T (eds) *Greek Literature in Translation* Longmans Green and Co New York 1958 p 387. Lysistrata urged other women to withhold sex from their husbands until they ended the Peloponnesian war.

⁸² *Report of the Fourth World Conference on Women* above note 26 at Strategic Objective E3 para 144–145.

⁸³ As above at Strategic Objective E4 para 146.

⁸⁴ Resolution 1325 above note 13 at para 13 does make one reference to the disarmament of former combatants in the process of demobilisation and reintegration, but this is not the same as general disarmament.

⁸⁵ *Charter of the United Nations* (1945) at para 26.

gender perspective'.⁸⁶ Women are valued functionally, as 'untapped-resource[s]' in the brokering of peace rather than as subjects with rights.⁸⁷ This approach actually perpetuates the traditional idea of women as peacemakers and the conservative gender script of biology as destiny, despite the gestures towards alternative gender representations. Although initiated by feminist NGOs, the compromised outcome indicates that R1325 falls a long way short of feminism 'coming to power'.

I do not want to give the impression that the final text of R1325 was the result of a conscious selection by the Security Council from a smorgasbord of more or less disruptive feminist ideas. The process was considerably more complex. Conveniently for the Council, some censoring of feminist ideas had already taken place in the NGO Working Group which, as Carol Cohn points out, brought together an assortment of NGOs, the majority of whom did not define themselves as 'anti-war' *per se* or even as 'feminist', unlike WILPF.⁸⁸ Critiquing 'militarism' and the 'arms trade', let alone militarism's reliance on a particular gender script, were considered 'too political' by most of the NGO Working Group, leading to the marginalisation of many feminist ideas before they even reached the Council. These omissions in the NGO draft foreclosed the pursuit of crucial aspects of feminist anti-war activism through the resolution.⁸⁹ The NGOs were not only disagreeing among themselves, but making strategic calculations about what the Council would find palatable, accepting various limitations in the interest of moving along towards adoption and implementation.⁹⁰ That the NGO draft transmitted to the Namibian Mission was already (strategically) compromised is inconsistent with Halley's depiction of feminist activists enjoying privileged access to power. The draft was then further divested of feminist ideas when it was subjected to the diplomatic negotiations that take place in the corridors of the UN, and the 'politics over gin and cigars'⁹¹ in its executive bars and dining rooms.

With the adoption of R1820, eight years later, the problem of selective engagement with feminist aims is drastically compounded. In this resolution, the Security Council retreats from the broad agenda of R1325 and focuses on sexual violence, particularly when it is used as a 'tactic of war' targeting civilians.⁹² In its first operative paragraph, R1820 proposes that severe sexual violence may even constitute a threshold for the collective use of force authorised by the Security Council, which is disturbing, as Gina Heathcote has argued, because it uses feminist ideas to expand the legal justifications for the use of force (*ius in bello*),⁹³ a profoundly anti-feminist project. Halley and her colleagues, in the context of international criminal law, have also worried that official acknowledgment of rape as a 'weapon of war', even if condemnatory, may make rape more likely to be used in precisely that way.⁹⁴ Further, Sandesh Sivakumaran draws attention to

⁸⁶ Gibbings above note 27 at 60.

⁸⁷ Cohn above note 30 at 16.

⁸⁸ As above at 12.

⁸⁹ As above at 12–13.

⁹⁰ As above at 11–14.

⁹¹ Gibbings above note 27 at 56.

⁹² SC Res 1820 above note 13 at para 1.

⁹³ Heathcote above note 51 at 5–6.

⁹⁴ Halley et al above note 2 at 383.

R1820's silences about sexual violence directed at men and boys, especially when it comes down to specifying concrete measures of implementation or enforcement.⁹⁵ He also questions the Council's narrow focus on sexual violence that targets 'civilians' which excludes sexual violence perpetrated against child soldiers (both boys and girls) who may suffer abuse from people on their 'own side', and rules out addressing sexual violence directed at combatants and others taking an active part in hostilities, who are especially vulnerable if they have been captured by enemy forces and are being held in detention.⁹⁶ There are a number of other problems with this approach, including whether 'weaponising' rape makes the rules regulating the conduct of armed conflict (*jus ad bellum*), which excuse many atrocities in the name of military necessity,⁹⁷ applicable to war-time rape. The depiction of sexual violence only in 'emergency room' terms also ignores the many other ways that it supports militarism, including by subjecting women and men from marginalised ethnic or racial groups to lower wages in occupations that support the armed conflict.⁹⁸

In many respects, therefore, R1820 threatens to seriously disable the 'new, daring, and ambitious strategy for anti-war feminists' represented by R1325, decisively countering any (mis)apprehension that the Council might be a supporter of women's emancipation. The resolution relegates participation to a fleeting reference in operative paragraph 12⁹⁹ which, as Heathcote observes, premises participation on women's sexual vulnerability rather than their intrinsic worth.¹⁰⁰ The retreat from the broad agenda of R1325 clearly serves the institutional purposes of the Council by reasserting its role as a protector of women, especially the 'brown women'¹⁰¹ in the situations on its agenda. It reinvigorates a narrative of 'defending women's honour', which became necessary in the post-Cold War period to justify new military engagements against fragmented adversaries.¹⁰² Thus R1820 is useful to the Council because it can be read to support militarism and justify the Council's hegemonic use of power in the name of achieving feminist goals — both deeply anti-feminist projects.

Yet, while R1820 put many feminist ideas in great danger, the situation might have been even worse, were it not for a number of informal interventions by several members of the NGO Working Group. The first draft was prepared by the US Department of State, where it was designed to complement the Bush Administration's anti-trafficking agenda. Indeed, in introducing R1820 and opening debate on its adoption, then US Secretary of State Condoleezza

⁹⁵ Sivakumaran Sandesh 'Lost in Translation: UN Responses to Sexual Violence against Men and Boys in Situations of Armed Conflict' (2010) *International Review of the Red Cross* Cambridge University Press.

⁹⁶ As above.

⁹⁷ Gardam Judith 'Proportionality and Force in International Law' (1993) 87 *American Journal of International Law* 391.

⁹⁸ I would like to thank Bina D'Costa, one of the Feminist Internationalism workshop participants, who pointed this out to me.

⁹⁹ The resolution also makes reference to the importance of women's participation in addressing sexual violence, but this is a very narrowly focused idea of participation: SC Res 1820 above note 13 at para 10 and 11.

¹⁰⁰ Heathcote above note 51 at 2.

¹⁰¹ Spivak Gayatri Chakravorty 'Can the Subaltern Speak?' in Nelson Cary and Grossberg Lawrence (eds) *Marxism and the Interpretation of Culture* University of Illinois Press Champaign 1988 p 287.

¹⁰² DeZotto Augusta and Jones Adam 'Male-on-Male Sexual Violence in Wartime: Human Rights' Last Taboo?' paper presented to the Annual Convention of the International Studies Association (ISA), New Orleans, 23–27 March 2002.

Rice described its goal as protecting the ‘most vulnerable’ members of the international community and, in this context, explicitly referred to the US campaign to fight ‘human trafficking’.¹⁰³ As I understand it, the initial draft which was leaked to NGOs was even more preoccupied with rescuing vulnerable and powerless women than the final wording. Horrified at this focus, some participants in the NGO Working Group worked with supportive Council members, ultimately achieving a better outcome than was first threatened. So, unlike R1325, the draft of R1820 was initiated by a Council member and NGOs sought to strengthen it, rather than dampening down their own aspirations in order to persuade the Council to adopt a draft that they had initiated. In this chain of events feminist NGOs were presented with the more familiar task of responding critically to an official initiative, rather than attempting to take the initiative themselves. I find it hard to conceive of this rear-guard action to ameliorate the worst excesses of R1820 as an example of Governance Feminism and, while its subject matter reflects subordination feminism, it is so clearly in the service of imperial state actors that I am reluctant to describe most of its content as ‘feminist’.

The Security Council’s third thematic resolution on Women, Peace and Security was R1888,¹⁰⁴ which also focussed on addressing sexual violence. On first reading, I thought it was merely reinforcing the Council’s convenient shift back to defending women’s ‘honour’. It repeats almost *verbatim* the first operative paragraph of R1820, which contains the problematic references to addressing sexual violence when it is commissioned as a ‘tactic of war’ and expresses the Council’s readiness to take steps ‘where necessary’ to address it. However, as I examined R1888 more closely, some key differences became apparent. First, like R1820, R1888 was sponsored by the US during its turn as Council president, but this time around the Obama Administration was eager to make a decisive break with the Bush legacy by pursuing a new foreign policy agenda for women.¹⁰⁵ In introducing the resolution, US Secretary of State Hillary Clinton, as President of the Council, made the point that

[w]e must also recognize that ending conflicts outright is the most certain path to ending sexual violence in conflict. So pursuing peace and successful post-conflict transitions should be our highest priority.¹⁰⁶

At the press conference that followed the Council’s session, Clinton reiterated this point saying:

¹⁰³ Security Council Record of Debate 5916th mtg S/PV.5916 (19 June 2008).

¹⁰⁴ SC Res 1888 above note 13.

¹⁰⁵ For example, President Obama overturned the ‘gag rule’ on 23 January 2009, only 3 days after his inauguration, which prohibited the US from funding groups that provide abortions or abortion counselling overseas. Also early in his Administration, President Obama created a new foreign policy position, Ambassador-at-Large for Global Women’s Issues, which was filled by Verveer Melanne in March 2009.

¹⁰⁶ Clinton Hillary Rodham ‘Remarks on the Adoption of a United Nations Security Council Resolution to Combat Sexual Violence in Armed Conflict’ 30 September 2009 <http://www.state.gov/secretary/rm/2009a/09/130041.htm> at 26 April 2010.

... we will do more to prevent violence against women and girls ... as we focussed on in the resolution today. But we will also do more to end the conflicts ... and women have to be at the table in ending those conflicts and in charting new courses for their societies.¹⁰⁷

I read these remarks as an effort to think beyond the ‘emergency room’ towards addressing sexual violence in the broader context of achieving peace, by prioritising conflict prevention. They contain a small flicker of hope that the new US Administration may be moving away from the neo-imperial script of rescuing Third World women which, despite a new President, continues to grip the imagination of a surprising number of people in the US. For instance, the recent book by *New York Times* journalist Nikolas Kristof and his wife Sheryl DeWunn, who are generally considered to be social progressives, sets out to initiate a global campaign to save the world’s women who are all located outside the West,¹⁰⁸ as if these women cannot fight for their rights without the tutelage of Americans.

Secondly, perhaps sensing the moment, the Secretary-General’s report on the implementation of R1820, 12 months after its adoption, was implicitly very critical of its framework.¹⁰⁹ I am not in a position to examine the influence of feminists working within the UN bureaucracy on the content of this report, but such a study would contribute important insights to the discussion of Governance Feminism. The report repeatedly emphasised that sexual violence is a form of ‘discrimination’ against women and girls¹¹⁰ and noted that it is also often perpetrated on other prohibited grounds of discrimination, such as race, religion, national, social or ethnic origin.¹¹¹ It raised concerns about the impact of sexual violence on a wide range of victims’ rights, including economic and social rights,¹¹² linked R1820 with the participation and empowerment objectives of R1325,¹¹³ and recommended many concrete measures, including that the Council coordinate its work across all its thematic resolutions which, in addition to women, peace and security, concern the protection of civilians and children during armed conflict.¹¹⁴ The Secretary-General’s report appears squarely aimed at resisting the narrow agenda of R1820 by reading it in the context of R1325.

There were undoubtedly many other factors, including the continued lobbying of the NGO Working Group, that led eventually to R1888 drawing on a more empowering selection of feminist ideas than R1820. This shift is evident in a number of ways. First, as Sivarkumaran observes, the text is more inclusive of all victims of sexual violence, both male and female,

¹⁰⁷ United Nations ‘Remarks After Meeting on the Adoption of a UNSC Resolution to Combat Sexual Violence in Armed Conflict’ UN Headquarters New York City 30 September 2009.

¹⁰⁸ Kristof Nikolas D and WuDunn Sheryl *Half the Sky: Turning Oppression into Opportunity for Women Worldwide* Alfred A Knopf Publishing House New York 2009 p xxii.

¹⁰⁹ UN Secretary-General *Report of the Secretary-General pursuant to Security Council resolution 1820 S/2009/362* 20 August 2009.

¹¹⁰ As above at paras 7 17 and 19.

¹¹¹ As above at para 15.

¹¹² As above at para 19 23 and 49.

¹¹³ As above at para 20.

¹¹⁴ As above at para 56(e) 56(f) 56(g) and 56h.

although there are still some lapses into the wording of ‘women and children’,¹¹⁵ and it remains limited to ‘civilians’.¹¹⁶ Overall, R1888 more consciously addresses sexual violence as an issue of structural inequality, as I have argued, rather than as the result of victims’ inevitable vulnerability. In addition, the plan to coordinate the Council’s work to address gender violence with that of the new UN composite gender entity,¹¹⁷ which the General Assembly agreed to establish just 3 days earlier,¹¹⁸ makes an important link with efforts that are more likely to push the Council to address women’s structural inequality, although there is also the possibility that the composite entity may prove to be an exemplar of Governance Feminism. A final indication of this shift away from R1820’s protective approach is the insistence that sexual violence issues be included in the agendas of all UN sponsored peace negotiations ‘from the outset’.¹¹⁹ This recognises that ending impunity is one of the necessary foundations for a sustainable peace, striking another blow against those who dismiss sexual violence as an unavoidable side-effect of armed conflict. The earlier trend towards increasingly functionalist engagement with feminist ideas is reversed in R1888, as some of the feminist politics associated with those ideas are reintegrated into the official text.

The fourth resolution in the series comes full circle,¹²⁰ returning to the broader feminist agenda of R1325 and pushing it further in some respects. Notably, R1889 places issues of women’s structural disadvantage explicitly on the Council’s agenda, although the silences in R1325 about general disarmament and conflict prevention remain. So, while the two recent resolutions still leave much to be desired from a feminist point of view, they nevertheless suggest that it is possible to strengthen the progressive content of feminist ideas, once they have a foothold in institutional discourse, even following some weakening of those footholds. A number of factors will influence when these possibilities might be successfully exploited, including whether there is pressure from outside the institution to read feminist politics into institutionalised feminism, the serendipity of a critical mass of supportive members inside the institution, and the amount of bureaucratic support which can be brought to bear through, for example, reports of the Secretary General.

Therefore, it is too pessimistic to describe the Security Council’s selective engagement with feminist ideas as coopting them, as I did in my earlier article. While the Council has clearly turned those ideas to its own purposes, their continuing contestability creates opportunities for further feminist engagement. As Foucault has counselled, ‘things are always liable to go wrong, but also there is always the possibility of doing something to prevent this, since disaster is never ineluctable’.¹²¹ The nuanced opportunities for averting the disaster that could result from the Council’s selective engagement with feminist ideas do not arise from feminists walking the halls

¹¹⁵ SC Res 1888 above note 13 at para 12 and 26.

¹¹⁶ Sivakumaran above note 95.

¹¹⁷ SC Res 1888 above note 13 at para 28.

¹¹⁸ Resolution 63/611 on System-wide Coherence adopted by the General Assembly at its 63rd Session A/RES/63/311 2 October 2009.

¹¹⁹ SC Res 1888 above note 13 at para 17.

¹²⁰ SC Res 1889 above note 13.

¹²¹ Gordon above note 23 at 46–47.

of power, but from the myriad ways in which the resolutions have been productive of local and global activism and critique. While feminists within the bureaucracy, or on governmental delegations, may be well-placed to provide some ‘inside’ support, it is a misreading of their power to describe it as top-down Governance Feminism. Their power to reinject feminist politics into the selective institutional embrace of feminist ideas is crucially dependent on the dynamism, persistence and creativity of movements for change outside international institutions, which remain alert to moments of opportunity even, or perhaps especially, when the feminist project looks like it is losing ground.

3.2 Danger 2: The Absence of Accountability Mechanisms

In addition to R1325’s silences about women’s structural inequality, disarmament and conflict prevention, it is also silent about mechanisms that would monitor its implementation. Although the NGO Working Group’s original draft envisaged that an expert panel would be established to work with UN agencies and departments to implement R1325, this proposal did not survive the diplomatic wrangling over the draft between Security Council members.¹²² Also omitted was a recommendation that the Council formally commit itself to further discussions with NGOs over the course of R1325’s implementation.¹²³ By the fourth anniversary of its adoption in 2004, many of the official statements presented at the Council’s Open Debate expressed deep dissatisfaction with the pace of implementation.¹²⁴ Another five years later, in his 2009 annual report on R1325, the Secretary-General was still expressing frustration about its ‘weak implementation framework’ and the ‘absence of clear targets and reliable data’, identifying this as an ‘obstacle’ to strengthening women’s participation in conflict prevention, conflict resolution and peacebuilding.¹²⁵ ‘[G]iven the novelty and comprehensiveness’ of R1325, his report says, the Council’s failure to establish a reporting mechanism ‘has become a major handicap’,¹²⁶ which ‘demands a reinvigorated commitment’,¹²⁷ and the establishment of such a mechanism is recommended ‘as matter of urgency’.¹²⁸ While the NGO Working Group had been making such arguments since 2001, the bureaucratic assessment had finally caught up with them.

Resolution 1820 is not much better when it comes to ensuring accountability, despite its considerably less novel approach and narrow focus on sexual violence. It required the Secretary-General to report in twelve months, by June 2009, on its implementation in situations on the agenda of the Security Council.¹²⁹ The failure to establish mechanisms that would assist

¹²² Gibbings above note 27 at 57–8.

¹²³ As above at 58.

¹²⁴ For a summary of the Open Debate on Women, Peace and Security see PeaceWomen: Women’s International League for Peace and Freedom *Open Debate on Women, Peace and Security 29 October 2003* (2003) <<http://www.peacewomen.org/un/SCOpenDebate2003/OpenDebate2003index.html>> at 19 May 2009.

¹²⁵ UN Secretary-General above note 70 at para 60.

¹²⁶ As above at para 72.

¹²⁷ As above at para 76.

¹²⁸ As above at para 84(1).

¹²⁹ SC Res 1820 above note 13 at para 15.

the Secretary-General to assess its implementation exposes the Council's disingenuousness — its need to use sexual violence as a trigger that will legitimate Council action combined with its lack of commitment to follow through in a way that will change the everyday realities of gender inequality in the context of armed conflict and its aftermath.

The Security Council's refusal to monitor the implementation of its 'women's agenda' compares badly with its establishment of the Working Group on Children and Armed Conflict in 2005¹³⁰ to monitor the implementation of its children's resolutions, which have the same non-binding status.¹³¹ The Secretary-General uses this comparison in his 2009 report on R1325 to support his call for the establishment of a reporting mechanism.¹³² Its failure to establish systems of accountability also stands in contrast to the Council's proactive approach to ensuring implementation of its counter-terrorism resolutions by requiring annual reports from all UN member states and establishing the Counter-Terrorism Committee to review them,¹³³ although admittedly these resolutions were adopted under Chapter VII of the UN Charter, which makes them legally binding.

To my surprise, the adoption of R1888 and R1889 substantially changed this picture by establishing several potentially meaningful accountability mechanisms — something that Marianne Mollman, an activist involved in the NGO Working Group, told me had been completely unthinkable two years earlier.¹³⁴ It is in this respect that R1888 is perhaps most distinguishable from R1820, as it sets in place a number of oversight mechanisms, most of which were recommended by the Secretary-General's report on the implementation of R1820.¹³⁵ The resolution calls for the immediate appointment of a Special Representative of the Secretary-General to provide leadership, and drive forward efforts at the UN and at country levels, to address sexual violence in armed conflict.¹³⁶ Margot Wallström, a former Minister in the Swedish government and a former Vice President of the European Commission, was appointed to this position on 9 February 2010.¹³⁷ The resolution also recommends the establishment of a 'team of experts' to be deployed to 'situations of particular concern', to assist national governments to end

¹³⁰ SC Res 1612 UN SCOR 5235th mtg UN Doc S/RES/1612 (26 July 2005).

¹³¹ SC Res 1261 UN SCOR 4037th mtg UN Doc S/RES/1261 30 August 1999; SC Res 1314 UN SCOR 4185th mtg UN Doc S/RES/1314 1 August 2000; SC Res 1379 UN SCOR 4423rd mtg UN Doc S/RES/1379 20 November 2001; SC Res 1314 UN SCOR 4185th mtg UN Doc S/RES/1314 1 August 2000; SC Res 1460 UN SCOR 4695th mtg UN Doc S/RES/1460 30 January 2003; SC Res 1539 UN SCOR 4948th mtg UN Doc S/RES/1539 22 April 2004; and SC Res 1612 UN SCOR 5235th mtg UN Doc S/RES/1612 26 July 2005.

¹³² UN Secretary-General above note 70 at para 72.

¹³³ See SC Res 1373 UN SCOR 4385th mtg UN Doc S/RES/1373 (28 September 2001); SC Res 1390 UN SCOR 4452nd mtg UN Doc S/RES/1390 (16 January 2002); and SC Res 1453 UN SCOR 4682nd mtg UN Doc S/RES/1453 (24 December 2002).

¹³⁴ Telephone conversation with Marianne Mollman Human Rights Watch New York 19 November 2009 (notes on file with author).

¹³⁵ UN Secretary-General above note 109 at para 56 and 57.

¹³⁶ SC Res 1888 above note 13 at para 4.

¹³⁷ UN Department of Public Information *Secretary-General appoints Margot Wallström of Sweden as Special Representative on Sexual Violence in Conflict* UN Doc SG/A/1220 2 February 2010.

impunity, strengthen their justice systems and adopt holistic prevention strategies.¹³⁸ Further, the Council commits itself to include the identification of Women's Protection Advisers in the mandates of UN peacekeeping operations on a case-by case basis,¹³⁹ requests more systematic monitoring and reporting of conflict-related sexual violence, including a report in three months (an uncharacteristically tight time-line) on ways to improving this,¹⁴⁰ and a detailed annual report on the implementation of R1820, which, *inter alia*, must identify parties credibly suspected of committing systematic sexual violence in situations on the Council's agenda.¹⁴¹ This last call to identify perpetrators is particularly significant, as naming violators is something that states, including Council members, strongly resist.

In a similar vein, R1889 also takes implementation more seriously. It calls for the collection of data by all relevant UN bodies on the needs of women and girls in post-conflict situations, including their need for physical security and their participation in decision-making and planning,¹⁴² requests the Secretary-General to submit to the Council, within six months (another tight time-line), a set of indicators that can be used at the global level to track the implementation of R1325,¹⁴³ and asks the Secretary-General to report in twelve months time, specifically on addressing women's participation and inclusion in peacebuilding and planning in the aftermath of conflict.¹⁴⁴ Further, making up for some of the lack of accountability for R1325, on 5 March 2010 the Secretary-General appointed a civil society expert group to assess the impact of resolution 1325 on women in the context of armed conflict over the past decade.¹⁴⁵

How are these developments to be understood? One possibility is that the persistence of the NGO Working Group, its attentiveness to shifting possibilities, and the pressure its networks are bringing to bear on the Council are paying off. Having requested the Secretary-General to provide a progress report on the implementation of R1820 within twelve months, the Council then has to confront the fact that a comprehensive analysis is impossible because of the lack of information, despite the inquiry being confined to situations that are on its agenda. The frustrated Secretary-General takes the opportunity to propose a series of measures that, if adopted, would enable the Council to move towards a deeper understanding of the problem of sexual violence and the formulation of strategies that will begin to address it. It is not hard to imagine, in the context of the Secretary-General's report and the Obama Administration's desire to distinguish its resolution from the Bush Administration's earlier effort, that activists might take the opportunity to drive home the need for accountability. Because of the confluence of all these factors the Council is forced to adopt measures that will provide reassurance that it is in fact committed to addressing sexual violence.

¹³⁸ SC Res 1888 above note 13 at para 8.

¹³⁹ As above at para 12.

¹⁴⁰ As above at para 26.

¹⁴¹ As above at para 27.

¹⁴² SC Res 1889 above note 13 at para 5.

¹⁴³ As above at para 17. See Report of the Secretary-General, *Women, Peace and Security*, UN Doc S/2010/173, 10 April 2010.

¹⁴⁴ As above at para 19.

¹⁴⁵ The group is co-chaired by the former Irish president and UN High Commissioner for Human Rights, Mary Robinson, and the Executive Director of Femmes Africa Solidarité, Bineta Diop.

This development is at odds with my earlier conclusion that the resolutions are largely symbolic, designed to fulfil the Council's need for 'gender legitimacy' in the context of rising concern about its expanding assumption of power, but unlikely to have an impact on the daily lives of women and girls affected by armed conflict. While the effectiveness of these new accountability mechanisms has yet to be seen, they mark a new stage in the Council's work on women because it is now capable of being monitored. Monitoring is no panacea, as it is susceptible to bureaucratic mystification and control, and can provide false reassurance. In this sense, top-down monitoring may confirm Halley's fears about Governance Feminism. Yet at the same time, supervisory mechanisms open more opportunities to avert 'disaster' by enhancing transparency and creating precious new channels for feminist perspectives to flow to the Council from grass roots networks and transnational movements.

3.3 Danger 3: The Revitalisation of Protective Stereotypes of Women

The third danger, evident in the Security Council's first two resolutions on women, was the reversion to protective stereotypes that seems inevitably to follow on the heels of more empowering representations of women, closing down emancipatory possibilities as soon as they are opened up. This regressive tendency is even evident in R1325 which, despite its broad agenda, reserves its strongest wording for dealing with the suffering of women during armed conflict. The specificity of measures to protect women, when compared to the generality of measures to promote women's participation, is striking. The wording is reflected in differential practice, as reported in the Secretary-General's 2009 report on the implementation of R1325, which finds that 'women continue to be considered as victims and not as key partners in addressing and resolving situations of armed conflict'.¹⁴⁶ Despite the presence of many empowered representations of women in R1325 and its emphasis on women's potential to make valuable contributions to conflict resolution and peace-building, the report concludes that women's participation in peace processes 'remains marginal'.¹⁴⁷

In contrast to R1325, R1820 focuses exclusively on protecting women and girls from sexual violence. Women are defined primarily by their vulnerability and protective measures are thoroughly endorsed. The language of 'women and children' dominates,¹⁴⁸ the stereotype of women as, predominantly, victims of war due to sexual violence is firmly reinstated,¹⁴⁹ and the Council assumes its former role as their 'protector'. Sexual violence is treated as a 'fixed reality' in women's lives¹⁵⁰ and the fear of sexual violence is assumed to be the primary concern for women during armed conflict and in its aftermath. The horror of sexual harm even warrants 'evacuation

¹⁴⁶ UN Secretary-General above note 70 at para 68.

¹⁴⁷ As above at para 81.

¹⁴⁸ SC Res 1820 above note 13 at para 3 and 8; 'women and girls' are referred to in paras 3, 5, 9, 10, 14 and 15.

¹⁴⁹ As above. In sixteen operative paragraphs, the language of 'protection' is used seven times. There is only one reference to rights, and that is in the Preamble.

¹⁵⁰ Marcus Sharon 'Fighting Bodies, Fighting Words: A Theory and Politics of Rape Prevention' in Butler Judith and Scott Joan W (eds) *Feminists Theorize the Political* Routledge New York 1992 p 385 at 387.

of women and children under imminent threat of sexual violence to safety',¹⁵¹ which grants sexual violence victims a privileged position in communities affected by armed conflict. This privilege is further reinforced by urging national institutions to provide sexual violence victims with 'sustainable assistance'¹⁵² and requesting regional bodies to consider 'policies, activities and advocacy' for their benefit.¹⁵³ It is not hard to draw the links between these measures and the moral-panic-driven anti-trafficking agenda of the Bush Administration. As I argued earlier,¹⁵⁴ what about the woman facing imminent death from a non-sexual armed attack, or the man who is at risk of sexual violence, or the child who cannot be given the emergency medical treatment they need because the hospital has been destroyed? Why do they not warrant a place in the evacuation queue?

The Security Council could have remained faithful to the more liberating representations of women it embraced in R1325 by crediting women with agency in the face of sexual violence and questioning the inevitability of their powerlessness. The Council could have suggested measures that debunk those myths that sustain beliefs about women's helplessness in the face of sexual violence, and the myths that lead to the stigmatisation and ostracism of those women (and men) who have survived sexual violence. Rather than stating, as if it were a fact, that 'violence, intimidation and discrimination ... erode women's capacity and legitimacy to participate in post-conflict public life',¹⁵⁵ the Council could have refused the agent/victim dichotomy and acknowledged the capacity of women who are victims of sexual violence to also be agents of social change. Measures could have been promoted that would support women to develop self-defence strategies and organise collective actions that challenge the power of the rapist and the stigma of victimhood.

The two recent resolutions shift this ground in some positive respects. The proposal to evacuate women and children under imminent threat of sexual violence is not repeated in R1888, and nor is the reference to assistance for victims from regional and sub-regional bodies. Instead, R1888 situates addressing sexual violence within a broader agenda of gender mainstreaming, and promotes positive representations of women, despite the focus on sexual violence: as 'survivors',¹⁵⁶ as people to be consulted by the Council on its field visits,¹⁵⁷ as mediators and decision-makers in conflict resolution and peacebuilding¹⁵⁸ and as UN military and peacekeeping personnel.¹⁵⁹ Finally, R1889 not only completes the circle back to foregrounding the importance of women's participation,¹⁶⁰ but also refuses the separation between women as victims of armed conflict and women as participants in peace-building, drawing clear links between 'empowerment'

¹⁵¹ SC Res 1820 above note 13 at para 3.

¹⁵² As above at para 13.

¹⁵³ As above at para 14.

¹⁵⁴ Otto above note 11 at 24.

¹⁵⁵ SC Res 1820 above note 13 at Preamble.

¹⁵⁶ As above at para 6.

¹⁵⁷ As above at para 14.

¹⁵⁸ As above at para 16 and 18.

¹⁵⁹ As above at para 19.

¹⁶⁰ SC Res 1889 above note 13 at para 1.

and 'needs',¹⁶¹ and between improving physical security and socio-economic conditions.¹⁶² This leaves space for women 'victims' to also be numbered among the decision-makers and active participants in post-conflict re-construction, working against the stigma that all too often undermines their agency, and the perceived legitimacy of their contributions.

Again I am pressed to rethink my earlier conclusion that the Council's initial endorsement of more empowered representations of women was bound to be short-lived, given the normative tenacity of protective stereotypes of women and the utilitarian value of a traditional gender script to the Council. While this conclusion was supported by the reversion to protective responses in R1820, it is not sustained by the two more recent resolutions. Instead, it appears that the early footholds for empowered representations of women created by R1325 have endured, despite the massive erosion that was wrought by R1820. This experience confirms again the importance of treating feminist ideas, once institutionalised, as sites of continuing contestation. It also indicates that the subordination feminism that Halley associates with Governance Feminism is not the only feminist perspective at play in this contestation.

4.0 CONCLUSION: WORKING IN THE INTERSECTIONS OF POWER AND DANGER

There is no doubt that many feminist ideas have made their way into the lexicon of the Security Council over the past decade, mainly through the adoption of thematic resolutions on Women, Peace and Security. These ideas include the importance of women's participation in conflict resolution and peacebuilding, taking seriously the need to end impunity for sexual violence during and after armed conflict, countering negative social attitudes about women's capacity to participate equally, debunking myths that fuel sexual violence, and promoting women's empowerment by, *inter alia*, improving their socio-economic position and enjoyment of reproductive rights.

However, while I would describe these developments as the result of persistent and increasingly strategic feminist engagement with power, I would not describe them as evidence of Governance Feminism as a number of the attributes that Halley and her colleagues attribute to it are missing. First, I do not think that the main idea of power informing this advocacy is 'state-centred, top-down and sovereigntist' rule preference.¹⁶³ At first blush, it may look as though the NGO Working Group's focus on the Security Council treats power as coercive and top-down, but their advocacy is clearly marked by an understanding of power as dispersed, fragmentary and highly mobile in their efforts to make the resolutions widely accessible and understood as levers for supporting local action by women. In addition, their painstaking work to ensure the resolutions provide broad coverage of issues of concern to women, to increase the interactions

¹⁶¹ As above at para 9.

¹⁶² As above at para 10.

¹⁶³ Halley et al above note 2 at 341.

between Council members and women from conflict settings, and to engage local and international networks in pushing for implementation, also rely on an understanding of power in the Foucauldian sense of circulating through the entire social fabric¹⁶⁴ and as productive rather than repressive. As he says:

What gives power its hold, what makes it accepted, is quite simply the fact that it does not weigh like a force which says no, but that it runs through, it produces things, it induces pleasure, it forms knowledge, it produces discourse...¹⁶⁵

While it is true that some activists have sought to characterise the resolutions as ‘binding’ in a top-down sense, and the suggestion in R1820 that the threshold for the Council’s collective use of force might include responding to systematic sexual violence is clearly an effort to engage the coercive power of the Council,¹⁶⁶ this understanding of power has not been dominant in shaping feminist engagement with the Council.

Secondly, Halley and her colleagues describe Governance Feminism as providing a ‘dock’ for particular strands of feminist thinking associated with the ‘radical’ or ‘sexual-subordination’ feminism of MacKinnon which, because of its preoccupation with (hetero)sexuality as an arena of danger for women, has much in common with religious and social conservatives.¹⁶⁷ As they observe, feminist ideas that emphasise women’s vulnerability and powerlessness are particularly susceptible to serving hegemonic power in international law¹⁶⁸ and, as Vance argued 25 years earlier, sexual panics mobilise irrational fears about sexuality and can catch feminists in a ‘conservative impulse’ that drastically narrows the terms of feminist discourse.¹⁶⁹ Clearly R1820 fits into this mould, with its panicked proposal to evacuate women and girls facing an imminent threat of sexual violence and its silences about sexual violence directed at men and boys. However, the other three resolutions draw from a broader range of feminist ideas, and there is a hint of ‘sexual positivity’ in R1889’s call for the recognition of women’s ‘sexual’ as well as ‘reproductive’ health needs.¹⁷⁰ Even R1888, despite its focus on sexual violence, addresses the issue in the broader context of women’s (and perhaps men’s) empowerment instead of their inherent vulnerability. When taken together, these resolutions have not harboured the ideas of ‘sexual-subordination’ feminists, as feminist advances in international criminal law and anti-trafficking measures appear to have done. While those ideas have a presence in the Council’s resolutions, they have not had the effect of occupying the field and shutting out the influence of other feminist ideas.

¹⁶⁴ Foucault Michel ‘Two Lectures’ in Colin Gordon (ed) *Power/Knowledge* Pantheon Books New York 1980 p 98.

¹⁶⁵ Foucault Michel ‘Interview with Lucette Finas’ in Morris Meaghan and Patton Paul (eds) *Michel Foucault: Power, Truth, Strategy* Feral Publications Sydney 1979 p 63.

¹⁶⁶ The argument for such an extension has been made by MacKinnon Catharine ‘Women’s September 11th: Rethinking the International Law of Conflict’ (2006) 47 *Harvard International Law Journal* 1.

¹⁶⁷ Halley above note 4 at 29 and Halley et al above note 2 at 342.

¹⁶⁸ Halley at al above note 2 at 422.

¹⁶⁹ Vance above note 1 at 434–436.

¹⁷⁰ SC Res 1889 above note 13 at para 10.

Thirdly, the Security Council resolutions provide precarious footholds for further feminist engagement with institutional power, which is a far cry from 'walking the halls of power'. The institutional embrace of some feminist ideas is not the same as feminists 'running things' and, importantly, must not be confused with feminist activism outside those institutions. The real test of the feminist politics in these ideas is how they are translated into changed practices and ways of thinking 'on the ground'. While this translation remains sorely wanting in a top-down direction, the resolutions have provided a productive lever for many local and international women's groups and networks. Reflecting admiringly on the 'energy and activism that many women exhibit in informal [peacebuilding] activities', Kofi Annan expressed his hope that it be translated into 'their participation and influence in formal activities'.¹⁷¹ However, this is far too limiting to be my hope.

The Council resolutions illustrate the critical importance of feminist activism outside institutional control, which can resist the ways that institutions capture feminist ideas and turn them to their own purposes. Unlike the Governance Feminism model, we need to maintain a distinction between feminist ideas inside and outside international institutions. This distinction will make it easier to acknowledge the loss of feminist control, which occurs in the process of institutionalisation, and highlight the continuing need to engage critically with those ideas and the purposes to which they are put. Further, such a distinction will draw attention to the diversity of feminist ideas and the inevitability of their contestation, both inside and outside institutions. This critical and persistent engagement demands a strong relationship between the normative projects of feminist activism and the scholarly projects of feminist critique. It is extremely difficult to combine the strategic calculations demanded by the immediacy of activism with the critical analysis that comes with the benefit of distance and time for reflection. It may even be impossible. However, what is clear is that feminist activism and critique are mutually beneficial. Indeed, feminism will only thrive in the intersections of activism and critique, in the interaction between power and danger. The extraordinary transformation of Security Council resolutions into grass roots feminist organising tools attests to the productivity of this interplay.

It is always dangerous to challenge dominant forms of power, ideas and ways of doing things, as the feminist peace campaigners found during World War I.¹⁷² There are the dangers of vilification and marginalisation as the early feminist peace campaigners discovered, of institutional cooption as Lorde has warned, of legitimating institutions that are deeply antagonistic to transformative change as Mieville has argued, and of making things worse for women. While recognising these dangers, as Foucault says, is a 'somewhat pessimistic' position to take, it is 'also an activist one'.¹⁷³ Clearly, feminist ideas can gain institutional power, whether on the coat-tails of the Bush Administration's anti-trafficking agenda, President Obama's new agenda for women, or the Security Council's need to reassure critics of its gender legitimacy. However, while the content of feminist ideas is reshaped to serve the institution in the processes of institutionalisation, it is

¹⁷¹ UN Secretary-General *Women, Peace and security: Study Submitted by the Secretary-General Pursuant to Security Council Resolution 1325 (2002)* UN Doc E/03/IV/1 (2002) para 212.

¹⁷² Wiltsher Anne *Most Dangerous Women: Feminist Peace Campaigners of the Great War* Pandora London 1985.

¹⁷³ Gordon above note 23 at 47.

unduly pessimistic to describe this as creating ‘new forms of exile’ for feminism.¹⁷⁴ It is better to think of these processes as creating productive footholds for feminist ideas, which need to be critically engaged with and reappropriated for the political purposes of feminism, while also celebrating them cautiously as feminist achievements.●

¹⁷⁴ Otto above note 11.