“CEDAW General Recommendation 30 has provided a framework for activists to contextualize their work on women and peace and security. It is a powerful tool since CEDAW is binding for the government of India. General Recommendation 30 also provided women civil society with common ground to come together and form alliances [to push the women and peace and security agenda forward].”

-- Ms. Anjuman Ara Begum, Women in Governance (WinG), India

CEDAW General Recommendation (GR) 30 is a key instrument in contexts such as India, where the national government does not recognize the armed conflicts taking place within its territories. As a general recommendation of CEDAW—a convention ratified by India that is legally binding and requires periodic reporting—GR 30 allows civil society to challenge the Indian government on a number of points, particularly relating to the prevalence of violence against women in border zones, the participation of women in conflict resolution, and the development of a National Action Plan (NAP) for the implementation of UN Security Council Resolution (UNSCR) 1325 and its supporting resolutions.

**India and CEDAW**

India signed CEDAW on July 39, 1980 and ratified it on July 9, 1993, with certain reservations. India has not yet ratified the Optional Protocol to CEDAW. The CEDAW Committee considered the combined fourth and fifth periodic reports of India on July 2, 2014, during its 58th session. As the India periodic reports were submitted to the CEDAW committee prior to the adoption of GR 30, the reports could not have mentioned the recommendation. However, the reports made no mention of UNSCR 1325—which was adopted in 2000—and its supporting resolutions on women and peace and security (WPS) adopted since.

Both UNSCR 1325 and GR 30 were also absent from the opening statement of the Indian delegation during the 58th CEDAW session in 2014. The opening statement did highlight several programs put in place to further women’s empowerment and acknowledged cases of violence against women in India. Yet, the delegation stated that violence against women is not widespread, which brought on palpable—and at times audible—discontent among the civil society representatives present in the room.

The omission of UNSCR 1325 and GR 30 on the part of the Indian government during the 58th CEDAW session was not fortuitous. In spite of armed conflict, heavy militarization and high levels of violence against women in regions such as Kashmir, North East India, Chhattisgarh, Odisha and Andhra Pradesh, the government does not recognize armed conflict on its territories. The localized and protracted nature of conflicts in India have also contributed to their lack of recognition at the international level, since these conflicts are not perceived as threats to international peace and security. Consequently, the Indian government considers that UNSCR 1325 and the supporting resolutions are not applicable to their country context, and India does not have a NAP on UNSCR 1325.

In their questions to the Indian government delegation during the 58th session, the CEDAW Committee invoked GR 30’s broad applicability to raise concern regarding the government’s response to the violence in Gujarat and North East India, where land rights, access to education, violence against women and basic infrastructure

---

remain problematic. In 2013, there were over 33,000 reported cases of rape, along with over 118,000 reported instances of torture, and both rates have increased multifold in the past years. The root causes of this dramatic increase in violence against women are the deeply rooted inequality throughout Indian society where marginalized groups, including women, are constantly disregarded, and an overarching culture of complicity. The CEDAW Committee also brought up GR 30 in the context of Indian housing projects in northern Sri Lanka, given that GR 30 addresses the extraterritorial application of the CEDAW convention. Moreover, CEDAW experts relied on GR 30 to ask what concrete measures are in place to address internal displacement that result from the conflict in India, which is particularly affecting women.

In its responses to the CEDAW Committee, the Indian government delegation did not respond to questions related to GR 30. Instead, it stated that cases of sexual violence are isolated events in India that are distorted and exaggerated by the media; that there are only very few women who are internally displaced in India; and that those displaced have all been provided the appropriate services.

Following the 58th session, the CEDAW Committee’s Concluding Observations included specific references to UNSCR 1325 and GR 30. The Committee urged the Indian government to “ensure that women in the north-eastern states participate in peace negotiations and in the prevention, management and resolution of conflicts in line with Security Council resolution 1325 (2000) and the Committee’s general recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations.” The Concluding Observations also emphasized that India’s “extraterritorial obligations extend to actions affecting human rights, regardless of whether the affected persons are located on its territory,” highlighting women’s human right violations as a result of a housing project in Sri Lanka and a dam construction in Nepal.

**Achievements**

**Momentum for civil society reporting, advocacy and training on GR 30 and WPS**

Prior to the adoption of GR 30 in October 2013, WPS was not a priority issue, even among national women’s groups in India. However, GR 30 created momentum: it enhanced collaboration and boosted advocacy efforts on WPS issues among women activists. Given that the Indian government had submitted its fourth and fifth periodic reports before the adoption of GR 30, it was crucial for civil society to revise their shadow reports after October 2013, so that they could highlight women’s plights in armed conflict contexts in India using GR 30 as an instrument. As the first Asian country to report to the CEDAW Committee after the adoption of GR 30, the India shadow reports also set an example for the future review process of other Asian countries.

Since the 58th CEDAW session, Indian civil society organizations that work on WPS issues have continued to use GR 30 extensively, both in international advocacy platforms like CEDAW, the Commission on the Status of Women (CSW) and the UNSCR 1325 anniversaries every October, as well as in national lobbying initiatives with

---

3 The Committee’s list of issues and questions is contained in CEDAW/C/IND/Q/4-5 and the responses of India are contained in CEDAW/C/IND/Q/4-5/Add.1.
6 See CEDAW/C/IND/CO/4-5.
7 See CEDAW/C/IND/CO/4-5.
8 For examples of civil society shadow reports, see: https://www.ecoi.net/file_upload/1930_1406558243_int-cedaw-ngo-ind-17414-e.pdf
the government of India and parliamentarians and on regional media platforms. For example, during the 15th anniversary of UNSCR 1325 in October 2015, Indian civil society representatives took part in a side event on the complementarity between CEDAW GR 30 and UNSCR 1325, highlighting how GR 30 can be used by indigenous women in North East India. At the national level, civil society organizations held press conferences throughout the country, to widely disseminate their shadow report on GR 30 as well as the CEDAW Concluding Observations. This has enabled women’s groups to use these documents in their advocacy efforts and to follow up on the CEDAW Committee’s recommendations. Women’s rights activists also held informal meetings with parliamentarians to discuss GR 30 and the review of India’s latest report to CEDAW. In addition, engaging in regional conversations on CEDAW, Women in Governance (WinG)-India conducted an online discussion on GR 30 with participants from the Asia-Pacific region.

Indian civil society representatives have also joined forces with regional networks, both in advocacy and trainings efforts in the Asia-Pacific region. For instance, the Asia-Pacific Women’s Alliance for Peace and Security (APWAPAS) together with WinG-India made joint a submission to the 2015 Security Council High-level Review and Global Study process, which included language on the relevance of GR 30 to the review. In partnership with the Global Network of Women Peacebuilders (GNWP), APWAPAS also co-hosted a training on the use of “CEDAW General Recommendation 30 on Women in Conflict Prevention, Conflict and Post-conflict Situations” on 15-16 December 2014. During this training, representatives from WinG-India spoke of the achievements and challenges in using GR 30 in their advocacy work at all levels, and to bring about changes in government policies and actions that will make a difference in the lives of women in conflict-affected communities.

**Recommendations from women’s groups taken up by the CEDAW Committee**

Civil society organizations took part in a briefing with the CEDAW committee prior to the consideration of the India reports in July 2014. During the briefing, representatives from WinG-India specifically urged the CEDAW Committee to make use of GR 30 to address violence against women and girls in heavily militarized regions of North East India. The impact of women’s advocacy efforts on GR 30 was evident in the questions of the CEDAW Committee to the Indian government delegation during the 58th CEDAW session, as well as in the Concluding Observations. As Bondita Acharya of WinG-Assam remarked in a public de-briefing in August 2014, “we as women activists were pleased with the level of engagement with the CEDAW members who played an active role in raising questions to the government of India delegation, with reference to women in conflict affected regions.”

---

11 https://apwaps.files.wordpress.com/2014/08/online-dialogue-on-unscr.pdf
12 Asia-Pacific Regional CS Consultation for the Global Study on Implementation of SCR 1325 with Ms Radhika Coomaraswamy, Kathmandu, February 2015, accessible at: https://apwaps.net/resources/
13 This training was co-hosted by the Global Network of Women Peacebuilders (GNWP). For more information, please see https://apwaps.net/2015/05/07/expanding-use-of-cedaw-gr-30-to-promote-accountability-on-women-peace-and-security/ and http://www.gnwp.org/news/training-cedaw-gr-30-december-15th-16th-jakarta-indonesia
Towards the repeal of the Armed Forces (Special Powers) Act, 1958

Civil society concerns on sexual violence under the Armed Forces Special Powers Act (AFSPA) in particular were highlighted in the CEDAW Concluding Observations. In the section on “Violence against women in border areas and conflict zones” of the Concluding Observations, the CEDAW Committee expresses concern over “the Provisions of the Armed Forces (Special Powers) Act requiring prior authorization by the Government to prosecute a member of the security forces and the reportedly high risk of reprisals against women who complain about the conduct of the security forces.” The CEDAW Committee calls upon the Government of India “to amend and/or repeal the Armed Forces (Special Powers) Act so that sexual violence against women perpetrated by members of the armed forces or uniformed personnel is brought under the purview of ordinary criminal law and, pending such amendment or repeal, to remove the requirement for government permission to prosecute members of the armed forces or uniformed personnel accused of crimes of violence against women or other abuses of the human rights of women and to grant permission to enable prosecution in all pending cases.”

This language marks an important victory for women advocates on WPS in India, who have work relentlessly to bring visibility to the growing cases of violence against women and the impunity enjoyed by the perpetrators and preserved by the AFSPA, in areas affected by conflict and heavy militarization. The CEDAW Committee recommendation was echoed in a recent India Supreme Court ruling in July 2016, which condemns the use of excessive force in areas declared disturbed under AFSPA. However, the Government of India has yet to repeal AFSPA.

Towards the recognition of conflict and the applicability of UNSCR 1325 in India

GR 30 is particularly consequential when the state is in denial of the conflicts as well as of the applicability of WPS legal instruments within its territories, as is the case in India. GR 30 covers the application of CEDAW in a broad spectrum of conflict situations, including “conflict prevention, international and non-international armed conflicts, situations of foreign occupation and other forms of occupation and the post-conflict phase” as well as “internal disturbances, protracted and low-intensity civil strife, political strife, ethnic and communal violence,” which may not be classified as armed conflict under international humanitarian law, but nonetheless result grave women’s rights violations.

Even though the India government delegation remained silent on GR 30 during the 58th CEDAW session and held fast in its denial of the widespread discrimination against women in India, the exchange between the delegation and the CEDAW Committee made clear that failing to report on GR 30 and the WPS resolutions will no longer be an option. Indeed, the concerns brought up by women civil society around issues of GR 30 and WPS in India were reflected in the Concluding Observations and recommendations, and the government of India will have to report on GR 30 implementation during its next CEDAW periodic review.

15 See Paragraph 12, (a) CEDAW/C/IND/CO/4-5.
16 See Paragraph 13, (a) and (b), CEDAW/C/IND/CO/4-5.
Challenges

Enduring government resistance to WPS

Even though GR 30 will now oblige the Government of India to cover WPS issues in its next CEDAW periodic report, the government continues to deny that there are armed conflicts in the country. It continues to reject the applicability of UNSCR 1325 and the supporting resolutions. As Ms. Helam Haokip from WinG-India expressed during a civil society training on GR 30 in December 2015, “The Government of India is turning deaf ears and blind eyes to the existence of armed conflict and with this, the development of a NAP remains a distant dream.” Civil society will have to follow up on the Concluding Observations of the CEDAW Committee Members, and to continue to lobby with the government for recognition of armed conflict, the proper implementation of the WPS recommendations and for the development of a NAP on UNSCR 1325.

Lack of awareness of the violence in local communities

National government officials based in the capital are disconnected from the daily realities of women in rural communities, in particular those of indigenous women in conflict-affected communities. Indigenous women face daily violence at the hands of the national military and are largely excluded from decision-making and peacebuilding efforts, in regions such as Northeast India. In such conflict-affected regions, customary laws often clash with statutory law, and the existing legal system fails to help women in any way.19

Lack of awareness on GR 30 and WPS resolutions

The level of awareness on GR 30 and the WPS resolutions among government officials remains extremely low, which in part may have accounted for their absence in the statements of the Indian government delegation during the 58th CEDAW session. The level of awareness of GR 30 and UNSCR 1325 also remains low among women in general, in particular in the communities most affected by conflict, where women and girls would benefit the most from their use and implementation.

Conclusions and Recommendations

Although GR 30 provides authoritative guidance to State parties to CEDAW to ensure that women's human rights are protected before, during and after conflict, the Indian government's denial of conflict hinders the implementation of GR 30 and of UNSCR 1325 and the supporting resolutions. To ensure that GR 30 and the WPS resolutions are used complementarily to empower and protect women, as well as to recognize and put an end to conflicts in India, WPS actors must consider the recommendations below.

To the Government of India:

- Act on the recommendations of the CEDAW Committee set forth in the Concluding Observations.
- Repeal the AFSPA to end impunity for sexual violence cases and all human rights violations.
- Develop a NAP on UNSCR 1325 and the supporting resolutions with active civil society involvement particularly women from conflict zones. The NAP should have a monitoring and evaluation mechanism and adequate budget for implementation.
- Support training on GR 30, UNSCR 1325 and the supporting resolutions for government officials at national and locals, in partnership with civil society.

To civil society:

- Continue to use GR 30 to advocate for the implementation of the UNSCR 1325 and the supporting resolutions, in particular in conflict-affected communities.
- Continue to lobby the national government, to ensure that they comply with the recommendations set forth in the CEDAW Concluding Observations.
- Train national and local government officials, as well as national and local civil society representatives, women and girls on the use GR 30, UNSCR 1325 and the supporting resolutions.
- Forge partnership with local authorities to implement a localization strategy on UNSCR 1325 and the supporting resolutions at the local level including the development of Local Action Plans.
- Contribute to the development of guides and practical tools targeted at CSOs to raise awareness and use of GR 30.

To the CEDAW Committee:

- Continue to provide authoritative guidance to the Government of India on the legislative policy and other appropriate measures to ensure full compliance with its obligations under CEDAW to protect, respect and fulfill women’s human rights in conflict prevention, conflict and post-conflict contexts.
- Provide authoritative guidance to the Government of India to develop a NAP on UNSCR 1325 and the supporting resolutions with active civil society involvement, monitoring and evaluation mechanisms, and an adequate budget for implementation.
- Urge the Government of India to repeal the Armed Forces (Special Powers) Act.
- Continue to engage with civil society and to integrate their concerns and recommendations in the CEDAW Committee’s review of India’s periodic reports.

To the international community:

- Specific to the UN country team: Initiate a discussion with the government on a NAP for UNSCR 1325 and assure them of financial and technical support.
- Increase funding and technical assistance to Indian CSOs for the implementation of UNSCR 1325 and the supporting resolutions, especially local and grassroots organizations in conflict-affected communities.

Author: Eléonore Veillet Chowdhury, Global Network of Women Peacebuilders (GNWP)
Contributor: Anjuman Ara Begum, Asian Forum for Human Rights and Development (Forum-Asia), Women in Governance-India (WinG-India)
Contributing organization in India: Women in Governance-India (WinG-India)
Editors: Mavic Cabrera-Balleza and Erin Quinn (GNWP)