

UN Security Council Resolutions on Women, Peace and Security:

A Chart Detailing State Mandates to End Crimes of Sexual Violence in Armed Conflict,
Ensure Accountability and Promote Gender Parity in Conflict and Post-Conflict
Situations

November 2012



**Global
Justice Center**

Human Rights Through the Rule of Law

“Rape is used in my country as a weapon against those who only want to live in peace, who only want to assert their basic human rights, especially in the areas of the ethnic nationalities. Rape is rife. It is used as a weapon by the armed forces to intimidate the ethnic nationalities and to divide our country.”

Nobel Peace Laureate Daw Aung San Suu Kyi

“At this crucial moment in the country’s history, remaining human rights concerns and challenges should be addressed, and justice and accountability measures, as well as measures to ensure access to the truth, should be taken”.

Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana in his Progress Report on 7 March 2012

The following chart details the legally-binding mandates of the UN Security Council Resolutions on Women, Peace and Security 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), and 1960 (2010) – emphasizing the need for greater protection of women’s rights and the inclusion of women in global governance and peace processes. The chart delineates the duties and obligations for action by 1) the UN Secretary-General, and 2) Myanmar/Burma [hereinafter Burma], as both a UN member state and a party to armed conflict.

Despite their application to Burma, the Resolutions have not brought any real and concrete change for girls and women on the ground. The inability of UN representatives to reach conflict areas in Burma severely obstructs the reporting mechanisms of SCR 1960. Additionally, since the Constitution of Burma gives complete amnesty for any and all crimes committed by the ruling military regime, the Burmese government precludes any meaningful accountability and justice mechanism for the women victims of sexual violence and enshrines further impunity for perpetrators.¹

The Global Justice Center is a New York based Human Rights Organization with consultative status to the United Nations working with judges, parliamentarians and civil society leaders on the strategic and timely enforcement of international equality guarantees. The Global Justice Center has been at the forefront of human rights advocacy in Burma by working closely with groups on the ground to implement international women’s rights through the rule of law.

Description	Requirements ²	Compliance by Myanmar	Actions by the UN Secretary-General
SCR 1325 (2000)			
<p>Historic resolution, linking Women, Peace and Security passed unanimously under the Security Council’s mandate to maintain international peace and security, addressing the rights of female victims to rape and other crimes of sexual violence in armed conflict.</p> <p>SCR 1325 derives its legal mandate from international humanitarian law and international human right law,³ recognizing that the implementation of these legal duties is essential for the enforcement and protection of the rights of girls and women.</p>	<p><i>Secretary-General:</i></p> <p>Designate more women as UN special envoys and representatives to pursue good offices.⁴</p> <p>Ensure women’s participation in UN operations overseeing peace and security and carrying out implementation of 1325.⁵</p> <p>Implement strategic action plan that would give women greater decision-making role in conflict resolution and peace processes⁶</p> <p><i>Member States:</i></p> <p>Expand the representation of women in decision-making institutions – national, regional, and international – dealing with conflict prevention, management, and resolution⁷</p> <p>End impunity and prosecute those responsible for genocide, crimes against humanity and war crimes relating to sexual and other violence against girls and women; avoid amnesties for such crimes⁸</p> <p><i>Parties to Armed Conflict:</i></p> <p>Adhere to international legal obligations to protect and respect rights of girls and women, including the Geneva Conventions of 1949 and the Additional Protocols of 1977; CEDAW; the Refugee Convention of 1951 and its 1967 Protocol; United Nations Convention on the Rights of the Child of 1989 and the 2000 Optional Protocols; the Parties should also consider the Rome Statute of the International Criminal Court⁹</p>	<p>None.</p> <p>Myanmar does not have a national action plan to implement SCR 1325.</p> <p>Less than 1% of women participated in the constitution drafting process in 2008 and many higher ranking positions in the government are only open to candidates with a background in the military.</p> <p>The Constitution accords the military amnesty from criminal prosecution and civil liability for all crimes, including genocide, war crimes and crimes against humanity.¹² The Constitution defines the components of the sovereign state as the executive, legislative, and judicial branches of government, intentionally leaving the military outside of the realm of sovereign state.¹³</p> <p>No perpetrator has been prosecuted because of rape as a war crime or crime against humanity under the Rome Statute of the International Criminal Court (ICC). Furthermore, Myanmar does not have the national legal framework to prosecute such crimes. Through the amnesty provision the Burmese military enjoys a “license to rape” as phrased by various human rights groups.¹⁴</p> <p>The last Report of the CEDAW Committee on Myanmar was in 2008 when several concerns were raised on existing discrimination against women.¹⁵ Very recently the Special Rapporteur on the situation of Human Rights in Myanmar noted the low representation of women in the parliament (currently only 4.5 per cent) and called for measures to be put in place to immediately fill this gap.¹⁶</p>	<p>None.</p> <p>The Secretary-General has not taken any actions before the Security Council regarding Myanmar in regard to the amnesty provision in the Constitution.</p> <p>The Secretary-General has not addressed that President Thein Sein is legally incapable – even if willing – to enforce any laws, civil or criminal, against the military, thus rendering Myanmar unable to comply with its <i>erga omnes</i> obligations to the international community,¹⁷ including under the Geneva and Genocide Conventions¹⁸ and binding U.N. Security Council Resolutions.¹⁹</p> <p>The 2012 Report of the Secretary-General on the implementation of SCR 1325 only references Myanmar in connection with the SCR 1960 Report on conflict-related sexual violence and a low representation of women in parliament.²⁰</p>

	<p>Undertake special measures to protect girls and women in conflict areas from sexual and gender-based violence¹⁰</p> <p>Respect civilian character of refugee, settlement, and IDP camps and recognize special needs of girls and women; enforce mandates of SCRs 1208 and 1296¹¹</p>		
Description	Requirements:	Compliance by Myanmar	Actions by the UN Secretary-General
SCR 1820 (2008)			
<p>SCR 1820 is the first resolution to recognize conflict-related sexual violence as a tactic of war and its role as an impediment to the restoration of international peace and security.²¹</p>	<p><i>Secretary-General:</i></p> <p>Ensure that effective mechanisms protecting girls and women from violence, especially sexual violence, are developed in and around UN managed refugee and IDP camps; extend mechanism to disarmament, demobilization, and reintegration processes; consult with women and women-led organizations in these efforts²²</p> <p>Create strategies and guidelines to ensure that UN peacekeeping operations in conflict areas are capable of protecting girls and women from sexual and other violence; report any observations and recommendations regarding the protection of girls and women to the Security Council²³</p> <p><i>Parties to armed conflict:</i></p> <p>Protect girls and women from sexual violence, including by upholding the principle of command responsibility²⁴</p> <p><i>Member States:</i></p> <p>Exclude crimes of sexual violence from any amnesty provisions; ensure prosecution and end impunity for those crimes, which can</p>	<p>None.</p> <p>The blanket amnesty provision in the Constitution demonstrates that Myanmar continues not only to disregard but undermine the principle of command responsibility. The international community must make clear that failure to undertake legal and judicial reforms will have consequences reminding states that under a Security Council referral, the ICC can initiate investigations and prosecutions where states are unwilling or unable to do so.</p>	<p>None.</p> <p>The Secretary-General has cited Myanmar for violating Security Council Resolution 1820's protections for women in conflict situations²⁶ and for giving impunity to the Burmese military for ongoing sexual violence against ethnic women in conflict areas. Yet, Myanmar's Constitution accords the military immunity for all actions, including for using rape as a weapon of war.²⁷</p>

	constitute war crimes, genocide, and crimes against humanity; allot girls and women equal protection under the law and access to justice as a necessary component of reconciliation and sustainable peace ²⁵		
Description	Requirements	Compliance by Myanmar	Actions by the UN Secretary-General
SCR 1888 (2009)			
<p>SCR 1888 is aimed at strengthening the implementation of SCR 1820.</p> <p>The resolution also addresses the administrative issues in the context of addressing conflict-related sexual violence.</p>	<p><i>Secretary-General:</i></p> <p>Appoint a Special Representative to address UN response to sexual violence (SRSG-SVC) in conflict²⁸</p> <p>Propose ways to improve monitoring and reporting on conflict-related sexual violence²⁹</p> <p>Provide details to the Security Council on of trends and perpetrating patterns of sexual violence³⁰</p> <p>Provide the Security Council with information regarding parties to armed conflict that are credibly suspected of committing patterns of rape³¹</p> <p><i>States:</i></p> <p>Engage in reform of legal and judicial systems, in a way compatible with international law, to prevent impunity and address victims' access to justice³²</p> <p><i>Security Council:</i></p> <p>Consider acts of sexual violence in designation criteria when evaluating actions for sanctions committee³³</p>	<p>None.</p> <p>The Constitution grants the military complete amnesty and removes all oversight by the civilian government over the military. Therefore, the civilian government cannot implement judicial and legal reforms to address sexual violence that would be binding on the military.</p> <p>SCR 1888 fails to recognize that military regimes lack the incentives to hold themselves accountable. Recognizing that existing military regimes are often themselves the perpetrators of crimes of sexual violence against women, the Security Council should take independent steps to uphold the principle of command responsibility. For example for countries in violation of 1820, including States that have failed to end impunity, the Security Council should require a detailed plan including a timeline for ending impunity within the national judiciary. UN entities must also focus on strengthening mechanisms for accessing victims in non-cooperating countries since they are often the most in need of assistance.</p>	<p>None.</p> <p>The appointment of the SRSG-SVC to enhance the mandate of the UNSG is a very welcomed step towards raising awareness. However without this representative being able to access conflict regions the success of her office is linked to the specific country. Not law but geography determines whether data can be included in her Reports to the Security Council. The Secretary-General should ensure that the office is effective by making clear that violations of SCR 1888 and failure to provide access will be addressed before the Security Council.</p> <p>Until now the Secretary-General has failed to find mechanisms ensuring that isolated countries like Myanmar are under the same scrutiny as other States.</p>

Description	Requirements	Compliance by Myanmar	Actions by the Secretary-General
SCR 1889 (2009)			
SCR 1889 addresses the under-representation of women at all stages of peace processes and establishing the mechanism of indicators for SCR 1325	<p><i>Secretary-General:</i></p> <p>Ensure that UN entities and Member States compile and analyze data on the needs of girls and women in conflict situations to address their security and protection³⁴</p> <p>Produce a global set of indicators on implementation of 1325 for the Security Council's use³⁵</p> <p>Report annually to the Security Council on the implementation of SCR 1325³⁶ for countries on the Security Council agenda (which include Myanmar)</p> <p>Ensure full transparency cooperation and coordination efforts between the Special Representative of the Secretary-General on Children and Armed Conflict and the SRSG on sexual violence and armed conflict (see SCR 1888 (2009)).</p> <p><i>Member States:</i></p> <p>Promote women's participation in peace processes and expand women's role in political and economic decision-making during recovery processes³⁷</p>	None.	<p>None.</p> <p>The Secretary-General has enabled UN entities to collect data, however access to countries like Myanmar remains limited.</p> <p>The set of indicators is only effective for those countries where UN representatives have access to ethnic areas. The UN has failed to ensure that countries without UN representatives such as Myanmar are held accountable.</p> <p>The problem of the military ("Tatmadaw") recruiting child soldiers in Myanmar is well known; however, there is no mention of this issue in the Reports on women, peace and security. Children continue to be recruited by the Tatmadaw both as soldiers and porters. The Report of the Secretary-General in April 2012³⁸ also details the recruitment and use of children also by non-State actors in Myanmar.</p>
Description	Requirements	Compliance by Myanmar	Actions by the UN Secretary-General
SCR 1960 (2010)			
SCR 1960 provides an accountability system for addressing conflict-related sexual	<p><i>Secretary-General:</i></p> <p>List parties credibly suspected of committing or being responsible for patterns of sexual violence in situations of</p>	<p>None.</p> <p>Myanmar's civilian government has not taken any actions to combat sexual violence perpetrated by the military since under the current Constitution all</p>	<p>None.</p> <p>Myanmar was included in the last Report⁴⁵ of the Secretary-General. The 2012 Report of the Secretary-General identified Myanmar as being "credibly suspected</p>

<p>violence, including by listing perpetrators and establishing monitoring, analysis and reporting arrangements</p>	<p>the Council’s agenda in Annex to annual reports³⁹</p> <p>Institute monitoring, analysis and reporting mechanisms on conflict-related sexual violence⁴⁰</p> <p>Continue to submit annual reports on implementation of SCRs 1820 and 1888, including a strategic and coordinated plan for timely and ethical collection of information⁴¹</p> <p><i>Parties to armed conflict:</i></p> <p>Institute “specific and time-bound commitments to combat sexual violence” aimed at military organs by issuing clear orders, amending military field manuals and codes of conduct to prohibit sexual violence; investigate reports of sexual violence and ensure accountability⁴²</p> <p><i>Security Council:</i></p> <p>Will provide systematic consideration of sexual violence in mandate authorization and renewals⁴³</p>	<p>military matters are under the exclusive control of the Commander in Chief.⁴⁴</p>	<p>of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict.”</p> <p>Despite the amnesty provision for war crimes against women and credible information on cases of sexual violence, Myanmar was not included in the “naming and shaming” annex.</p> <p>Since the government does not allow any UN entities or international NGOs to conflict- affected ethnic areas, it is impossible to gather “UN verified” information or data regarding the incidence of sexual violence. The Global Justice Center has been raising this issue – that not law but geography decides the fate of the victims – in meetings with the SRSG-SVC and letters to the Secretary-General and has urged systems to ensure the overall consistency in monitoring.</p> <p>No sanctions have been considered against Myanmar.</p>
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¹ The UN General Assembly is in the process of drafting a resolution on the situation of human rights in Burma that will address more effective methods of accountability and call on the end of impunity for crimes of sexual violence. G.A. Draft Res. A/C.3/67.L.49 (9 Nov. 2012), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/584/63/PDF/N1258463.pdf?OpenElement> [hereinafter Draft GA Resolution]. The following are excerpts from a draft version of the General Assembly Resolution: “6. *Expresses* concern about remaining human rights violations, including arbitrary detention, forced displacement, land confiscations, rape and other forms of sexual violence, and torture and cruel, inhuman and degrading treatment, as well as violations of international humanitarian law, and urges the Government of Myanmar to step up its efforts to put an end to such violations; 7. *Calls upon* the Government of Myanmar to take necessary measures to ensure accountability and end impunity, including by undertaking a full, transparent and independent investigation into all reports of violations of international human rights and humanitarian law; 8. *Recommends* that the Government of Myanmar consider ratifying further international instruments in the fields of human rights, labour law, refugee law and humanitarian law . . .” Draft GA Resolution, OP 6-8.

² This is not a comprehensive list of requirements but a distillation of those that the GJC has been closely monitoring and which are essential for “true change” in Myanmar.

³ Security Council Resolution 1325, U.N. Doc. S/RES/1325 (31 Oct. 2000) available at: http://www.un.org/events/res_1325e.pdf [hereinafter SCR 1325], Preamble. “*Reaffirming also* the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts . . .”

⁴ SCR 1325, OP 3, “*Urges* the Secretary-General to appoint more women as special representatives and envoys to pursue good offices on his behalf, and in this regard calls on Member

States to provide candidates to the Secretary-General, for inclusion in a regularly updated centralized roster;”

⁵ SCR 1325, OP 4, “...urges the Secretary-General to seek to expand the role and contribution of women in United Nations field-based operations, and especially among military observers, civilian police, human rights and humanitarian personnel;”

⁶ Countries such as Myanmar: SCR 1325 OP 2. “*Encourages* the Secretary-General to implement his strategic plan of action (A/49/587) calling for an increase in the participation of women at decision making levels in conflict resolution and peace processes;”

⁷ SCR 1325, OP 1, “*Urges* Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict;”

⁸ SCR 1325 OP 11, “*Emphasizes* the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard *stresses* the need to exclude these crimes, where feasible from amnesty provisions;” **see also requirements of SCR 1820 prohibiting amnesties for war crimes of sexual violence**

⁹ SCR 1325, OP 9, “*Calls upon* all parties to armed conflict to respectfully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court;”

¹⁰ SCR 1325, OP 10, “*Calls on* all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse . . .”

¹¹ SCR 1325, OP 12, “*Calls upon* all parties to armed conflict to respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls, including in their design, and recalls its resolutions 1208 (1998) of 19 November 1998 and 1296 (2000) of 19 April 2000;”

¹² Myanmar Const., at ch. V, art. 445 (“No proceedings shall be instituted against the said Councils or any member thereof or any member of the Government, in respect of any act done in the execution of their respective duties.”); *see also* ch. XII, art. 343; Constitution of the Republic of the Union of Myanmar (2008) [hereinafter Myanmar Const.], at ch. I, arts. 20(b)-(c), 232(b)(iii), 235(c)(ii). Pursuant to ch. VII, art. 340, 341, and 342, of the 2008 constitution power over the military is vested in the Commander-in-Chief (he is defined as the (“Supreme Commander of all Armed Forces”). The President’s powers is to be exercised in conjunction with the National Defense and Security Council (the “NDSC”) which in turn is controlled by the Commander-in-Chief who controls the appointment of a majority of the 11 positions. So while the constitution provides that the NDSC is “led” by the President, in reality, the Commander-in-Chief has direct control of the NDSC. Chapter V, art. 201 provides that NDSC members are (a) The President; (b) Vice-President; (c) Vice-President (d) Speaker of the Pyithu Hluttaw; (e) Speaker of the Amyotha Hluttaw; (f) Commander-in-Chief of the Defence Services; (g) Deputy Commander-in-Chief of the Defence Services; (h) Minister for Defence; (i) Minister for Foreign Affairs; (j) Minister for Home Affairs; (k) Minister for Border Affairs. All these positions are occupied by former generals of the military junta except one vice president. *See also* ch. III, art. 71(b) and ch. IV, art. 141(b) (one-fourth of the total number of representatives in each legislative body must be active members of the military chosen by the Commander-in-Chief). Pursuant to ch. I, art. 20(b) “The Defense service has the right to independently administer and adjudicate all affairs of the armed forces.”

¹³ *Id.* at ch. I, art. 11. Article 11 defines “the three branches of sovereign power namely, legislative power, executive power and judicial power are separated, to the extent possible, and exert reciprocal control, check and balance among themselves.”

¹⁴ UK Campaign for Burma, “License to rape” (May 2002), available at: http://www.burmacampaign.org.uk/reports/License_to_rape.pdf, Phyu Phyu Sann and Akila Radhakrishnan Global Justice Center, License to rape: How Burma’s military employs systematic sexual violence, (March 15, 2012) available at: <http://www.womenundersiegeproject.org/blog/entry/license-to-rape-how-burmas-military-employs-systematic-sexualized-violence>.

¹⁵ Concluding Observations of the Committee on the Elimination of Discrimination against Women, Myanmar, CEDAW/C/MMR/CO/3 (7 Nov. 2008).

¹⁶ UN Document A/67/383, Situation of Human Rights in Myanmar (25 Sept. 2012) at 72.

¹⁷ The *erga omnes* doctrine refers to the absolute legal obligations of states towards the international community. *See* Case Concerning the Barcelona Traction, Light and Power Co. (Belg. v. Sp.) (2d Phase), 1970 I.C.J. 23, at 33 (Feb. 5 1970).

¹⁸ Convention on the Prevention of the Crime of Genocide, art. V, Dec. 9, 1948, G.A. Res. 260(A) (III) A, U.N.Doc A/Res/260(III) [hereinafter “Genocide Convention”]; Myanmar ratified the Genocide Convention on March 14, 1956. Geneva Conventions Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; Myanmar

ratified the Geneva Conventions on August 25, 1992. “As a party to the Genocide Convention and the Geneva Conventions, Myanmar is required to punish perpetrators of genocide and grave breaches of the Geneva Conventions in national courts or tribunals, regardless of the perpetrators’ political affiliation or military status. Furthermore, recent developments in customary international law indicate that national laws cannot provide amnesty for crimes against humanity or other serious violations of international humanitarian law.” International Center for Transitional Justice, *Submission to the Universal Periodic Review of the UN Human Rights Council*, at 4 (Jan. 2011), available at: <http://ictj.org/sites/default/files/ICTJ-Myanmar-Periodic-Review-2010-English.pdf>.

¹⁹ See *Special Research Report Security Council Action Under Chapter VII: Myths and Realities*, Jun. 23, 2008, available at: http://www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.4202671/k.3A9D/Special_Research_ReportbrSecurity_Council_Action_Under_Chapter_VII_Myths_and_Realitiesbr23_June_2008.htm.

²⁰ Report of the Secretary-General on Women, Peace and Security, UN Doc. S/2012/732 (Oct. 2, 2012) at page 11 “the report also references information on parties to armed conflict credibly suspected of committing or being responsible for acts of rape or other forms of sexual violence in Colombia, Libya, Myanmar” and page 21 regarding representation in parliament.

²¹ Security Council Resolution 1820, U.N. Doc S/RES/1820 (19 June 2008) available at: [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1820\(2008\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1820(2008)) [hereinafter SCR 1820], OP 1, “*Stresses* that sexual violence, when used or commissioned as a *tactic of war* in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security, affirms in this regard that effective steps to prevent and respond to such acts of sexual violence can significantly contribute to the maintenance of international peace and security, and expresses its readiness, when considering situations on the agenda of the Council, to, where necessary, adopt appropriate steps to address widespread or systematic sexual violence;” (emphasis added)

²² SCR 1820, OP 10, “*Requests* the Secretary-General and relevant United Nations agencies, inter alia, through consultation with women and women-led organizations as appropriate, to develop effective mechanisms for providing protection from violence, including in particular sexual violence, to women and girls in and around UN managed refugee and internally displaced persons camps, as well as in all disarmament, demobilization, and reintegration processes, and in justice and security sector reform efforts assisted by the United Nations;”

²³ SCR 1820 OP 9, “*Requests* the Secretary-General to develop effective guidelines and strategies to enhance the ability of relevant UN peacekeeping operations, consistent with their mandates, to protect civilians, including women and girls, from all forms of sexual violence and to systematically include in his written reports to the Council on conflict situations his observations concerning the protection of women and girls and recommendations in this regard;”

²⁴ SCR 1820 OP 3. “*Demands* that all parties to armed conflict immediately take appropriate measures to protect civilians, including women and girls, from all forms of sexual violence, which could include, inter alia, enforcing appropriate military disciplinary measures and upholding the principle of command responsibility (...).”

²⁵ SCR 1820 OP 4, “*Notes* that rape and other forms of sexual violence can constitute a war crime, a crime against humanity, or a constitutive act with respect to genocide, stresses the need for the exclusion of sexual violence crimes from amnesty provisions in the context of conflict resolution processes, and calls upon Member States to comply with their obligations for prosecuting persons responsible for such acts, to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice, and stresses the importance of ending impunity for such acts as part of a comprehensive approach to seeking sustainable peace, justice, truth, and national reconciliation;”

²⁶ See *Report of the Secretary-General Pursuant to Security Council Resolution 1820 (2008)*, U.N. Doc. S/2009/362, Aug. 20, 2009 [hereinafter 1820 Report] (citing Myanmar as a violator country, noting both the ongoing sexual violence perpetrated against ethnic women in conflict and the longstanding impunity afforded military perpetrators); see also S. C. Res. 1820, U.N. Doc. S/RES/1820, June 19, 2008, at para. 4 (prohibiting any amnesty for rape and other crimes targeting women in conflict).

²⁷ Myanmar Const., *supra* note 6, at art. 445.

²⁸ Security Council Resolution 1888, U.N. Doc. S/RES/1888 (30 Sept. 2009) available at: [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1888\(2009\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1888(2009)) [hereinafter SCR 1888] OP 4, “*Requests* that the United Nations Secretary-General appoint a Special Representative to provide coherent and strategic leadership, to work effectively to strengthen existing United Nations coordination mechanisms, and to engage in advocacy efforts, inter alia with Governments, including military and judicial representatives, as well as with all parties to armed conflict and civil society, in order to address, at both headquarters and country level, sexual violence in armed conflict . . .”

²⁹ In particular, through a “team of experts” which can be deployed to situations of particular concern. See SCR 1888 OP 8 (“*Calls upon* the Secretary-General to identify and take the appropriate measures to deploy rapidly a team of experts to situations of particular concern with respect to sexual violence in armed conflict . . .”)

³⁰ SCR 1888 OP 24, “*Requests* that the Secretary-General to ensure more systematic reporting on incidents of trends, emerging patterns of attack, and early warning indicators of the use of sexual violence in armed conflict in all relevant reports to the Security Council.”

³¹ SCR 1888 OP 27(c), “. . . information regarding parties to armed conflict that are credibly suspected of committing patterns of rape or other forms of sexual violence . . .”

³² SCR 1888 OP 6, “*Urges* States to undertake comprehensive legal and judicial reforms, as appropriate, in conformity with international law, without delay and with a view to bringing perpetrators of sexual violence in conflicts to justice and to ensuring that survivors have access to justice, are treated with dignity throughout the justice process and are protected and receive redress for their suffering;”

³³ SCR 1888 OP 10, “*Reiterates* its intention, when adopting or renewing targeted sanctions in situations of armed conflict, to consider including, where appropriate, designation criteria pertaining to acts of rape and other forms of sexual violence; and calls upon all peacekeeping and other relevant United Nations missions and United Nations bodies, in particular the Working Group on Children and Armed Conflict, to share with relevant United Nations Security Council sanctions committees, including through relevant United Nations Security Council Sanction Committees’ monitoring groups and groups of experts, all pertinent information about sexual violence;”

³⁴ Security Council Resolution 1889, UN Doc. S/RES/1889 (5 Oct. 2009) available at: [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1889\(2009\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1889(2009)) [hereinafter SCR 1889] OP 6, “*Requests* the Secretary-General to ensure that relevant United Nations bodies, in cooperation with Member States and civil society, collect data on, analyze and systematically assess particular needs of women and girls in post-conflict situations . . .”

³⁵ SCR 1889 OP 17, “*Requests* the Secretary-General to submit to the Security Council within 6 months, for consideration, a set of indicators for use at the global level to track implementation of its resolution 1325 (2000) . . .”

³⁶ SCR 1889 OP 18, “*Requests* the Secretary-General, within the report requested in S/PRST/2007/40, to also include a review of progress in the implementation of its resolution 1325 (2000), an assessment of the processes by which the Security Council receives, analyses and takes action on information pertinent to resolution 1325 (2000) . . .”

³⁷ SCR 1889 OP 1, “*Urges* Member States, international and regional organizations to take further measures to improve women’s participation during all stages of peace processes, particularly in conflict resolution, post-conflict planning and peacebuilding, including by enhancing their engagement in political and economic decision-making at early stages of recovery processes . . .”

³⁸ Report of the Secretary-General to the Security Council on children and armed conflict U.N.Doc. A/66/782-S/2012/261 (26 April 2012) available at: <http://www.unhcr.org/refworld/docid/4fd706472.html>.

³⁹ Security Council Resolution 1960, UN Doc. S/RES/1960 (16 Dec. 2010) available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/698/34/PDF/N1069834.pdf?OpenElement> [hereinafter SCR 1960] OP 3, “*Encourages* the Secretary-General to include in his annual reports submitted pursuant to resolutions 1820 (2008) and 1888 (2009) detailed information on parties to armed conflict that are credibly suspected of committing or being responsible for acts of rape or other forms of sexual violence, and to list in an annex to these annual reports the parties that are credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict on the Security Council agenda . . .”

⁴⁰ SCR 1960 OP 8, “*Requests* the Secretary-General to establish monitoring, analysis and reporting arrangements on conflict-related sexual violence, including rape in situations of armed conflict and post-conflict and other situations relevant to the implementation of resolution 1888 (2009) . . .”

⁴¹ SCR 1960 OP 18, “*Requests* that the Secretary-General continue to submit annual reports to the Council on the implementation of resolutions 1820 (2008) and 1888 (2009) and to submit his next report by December 2011 on the implementation of resolutions 1820 (2008) and 1888 (2009) and the present resolution to include, inter alia: (a) a detailed coordination and strategy plan on the timely and ethical collection of information . . .”

⁴² SCR 1960 OP 5, “*Calls upon* parties to armed conflict to make and implement specific and time-bound commitments to combat sexual violence, which should include, inter alia, issuance of clear orders through chains of command prohibiting sexual violence and the prohibition of sexual violence in Codes of Conduct, military field manuals, or equivalent; and further calls upon those parties to make and implement specific commitments on timely investigation of alleged abuses in order to hold perpetrators accountable;”

⁴³ SCR 1960 OP 13, “*Expresses* its intention to give due consideration to sexual violence in mandate authorizations and renewals and to request the Secretary-General to include, as appropriate, gender expertise in technical assessment missions;”

⁴⁴ Myanmar Const., *supra* note 1, at art. 343 (stating that “[i]n the adjudication of Military Justice...the decision of the Commander-in-Chief is final and conclusive.”).

⁴⁵ The Secretary-General, Report of the Secretary-General on Conflict-related sexual violence, ¶¶ 39-41, delivered to the Security Council and the General Assembly, U.N. Doc. S/2012/33, A/66/657 (Jan. 13. 2012) [herein “2012 Report”].