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WOMEN'S INTERNATIONAL
LEAGUE FOR PEACE & FREEDOM

14 April 2022

Open Letter to the United Nations Security Council

On 28th January 2022, in an open letter to the UN Security Council, WILPF called on the 15 member states to act to prevent the unfolding crisis in Ukraine. In the strongest possible terms, we urged the Council to address the underlying causes of the serious threat to international peace and security and to prevent debate being abused by its member states to "grandstand their militaristic rhetoric." Instead, the rhetoric of militarism has silenced the calls for peace and there continue to be flagrant violations of international law, including the core principles of the UN Charter.

The devastation visited on Ukraine is shocking. Evidence has been presented to the Council detailing war crimes and crimes against humanity committed by Russian soldiers including most especially in occupied territories. It appears that there are widespread and systematic attacks on civilians. We are warned that there will be a massive intensification of warfare in Donbass, with comparisons made to World War 2.

The Security Council is failing to discharge its primary responsibility as required under the UN Charter: to maintain international peace and security.

It is absolutely vital that the UN Security Council immediately take responsible action to build on that undertaken by the General Assembly in deploring Russia's aggression against Ukraine and in suspending Russia from the Human Rights Council. The International Court of Justice too has ordered Russia to suspend its military operation in Ukraine. The failure of the Security Council to take action has, yet again, exposed how the permanent members abuse the veto to further their own ambitions and not to uphold their Charter based obligations.

This is compounded by a misguided culture prevalent among Council members to act without due consideration of their responsibilities as member states of the Security Council, permanent or non-permanent. As members of the Security Council, states have additional obligations above and beyond those they have in other fora including the General Assembly. Individual state interests and obligations are insufficient grounds for circumventing the responsibility



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they have to the rest of the international community of states comprising the General Assembly, namely to maintain peace and security, including human security. The quid pro quo of Security Council membership is to discharge that duty. Non-interference is therefore not an option where there are egregious violations of international law threatening peace and security of all. It follows that the Security Council must act where there is a threat to peace and security and to uphold the international rule of law.

It is obvious that the current situation in Ukraine represents an unprecedented and immediate threat to international peace and security; 'the most serious global peace and security crisis in recent years.'¹ The conflict waged on Ukraine's territory is resulting in grain shortages which are exacerbating the already fragile food security of many states, particularly in Africa, and preventing necessary levels of humanitarian aid to States already suffering from conflict. The threat of a nuclear holocaust is real. The environmental consequences of this conflict are threatening the already slim chance that exists to avoid catastrophic climate change.

As an organisation dedicated to peace, demanding that disputes be regulated by law, not the insanity of who can kill and destroy the most, we, the Women's International League for Peace and Freedom and many allies, set out below steps that should be taken immediately by the member states of the Security Council to satisfy their legal obligations pursuant to the UN Charter:

Adopt a resolution to:

- demand an immediate ceasefire.
- reaffirm the obligation that states shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
- reiterate obligations of all parties to the conflict to comply with International Law including International Humanitarian Law (IHL) and Human Rights Law;
- give effect to its own resolutions on the protection of civilians in armed conflict, the protection of children in conflict, on women peace and security, and on food security;
- remain seized of the matter



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In accordance with the provisions of Article 34 of the Charter, undertake a mission to Ukraine, including to territories which were occupied by Russian forces , and the Donbass region to:

- witness first hand and testify to the consequences of Russia's aggression against Ukraine including in occupied territories
- assess and take positive action to address the dire humanitarian situation in Ukraine
- cooperate and work with people in the region, including civil society, women's groups and those who reject the gender binary;
- commence support for a peace process;
- in collaboration with the UN Secretary-General, produce a report on the findings of the mission to be presented to the GA for consideration

The Russian Federation has rejected all allegations of aggression or of war crimes, and seeks to present a rebuttal to claims made, as well as to assert the legitimacy of its military actions. If it has confidence in the veracity of its position, participating in such a mission will provide an opportunity to make its case and to seek adjudication. A path which should have been pursued and which the United Nations was established to ensure.

Women's International League for Peace and Freedom

Madeleine Rees - Secretary-General

Joy Onyesoh - President



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Open Letter to the United Nations Security Council - Annex

Responsibility of the UN Security Council under International Law

As a matter of legal obligation, the Security Council must act to protect civilians under threat and provide coherence in response to address: security for the domicile population, security for the displaced population, humanitarian assistance, the prevention of gender persecution. The requirement on it to do so derives from article 24 UN Charter pursuant to which member states have conferred on the Council "primary responsibility to maintain international peace and security."

Article 34 of the Charter allows for the Council to 'investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.'

Member states also 'agree that in carrying out its duties under this responsibility (art 24) the Security Council acts on their behalf.' This implies the continued interest and responsibility of member states to ensure that the Council takes adequate measures to maintain peace and security and that in discharging its duties it acts in accordance with the purposes and principles of the United Nations.

While International Humanitarian Law is in general directed at the parties to an armed conflict, member states of the UNSC, as states parties to the Geneva Conventions, have the obligation to 'ensure respect' for the Geneva Conventions.² Human rights law, including that based in customary international law requires states to 'respect, protect and fulfill' the human rights of all individuals, including the right to life. These obligations do not cease in time of armed conflict.³

Relevant UN Security Council Resolutions

Since 1999 the Security Council has adopted a series of resolutions directed at the protection of civilians in armed conflict, with further resolutions



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of children in armed conflict. In 2000 the Security Council adopted its first resolution on Women, Peace and Security (WPS) for the protection of women in armed conflict, recognising that this can contribute significantly to the maintenance and promotion of international peace and security.⁶ The Council has expressed its 'intention to increase its attention to women, peace and security issues in all relevant thematic areas of work on its agenda, including in particular Protection of civilians in armed conflict.'⁷

Some relevant aspects of these resolutions are highlighted below but importantly all such resolutions are grounded in these same regimes of international law – International Humanitarian Law, International Human Rights law and also Refugee law.

i) Civilians in armed conflict.

The first Security Council resolution on the protection of civilians explicitly references the Council's primary responsibility for the maintenance of international peace and security and notes that the hardships suffered by civilians in armed conflict, in particular as a result of the violence directed against them, especially women, children and vulnerable groups, have consequent impact on 'durable peace, reconciliation and development.'⁸

Accordingly, the Council 'expresses its willingness to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance to civilians is being deliberately obstructed, including through the consideration of appropriate measures at the Council's disposal in accordance with the Charter of the United Nations.' Article 34 of the Charter allows for the Council to 'investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.'

The latest resolution on the protection of civilians in armed conflict, adopted in April 2019 reiterates the need to ensure respect for International Humanitarian Law; expresses the Council's grave concern about the level of violence against civilians in armed conflict; its own 'commitment to pursue all possible avenues to prevent and end armed conflicts, including through addressing their underlying root causes in an inclusive, integrated and sustainable manner'.



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ii) Women Peace and Security.

Like the resolutions on the protection of civilians the nine Security Council resolutions on Women Peace and Security that the Council has adopted since resolution 1325 are accumulative, together building a comprehensive agenda for the prevention of and protection against sexual and gender-based violence against women and girls in armed conflict and more generally for the protection of women's human rights.¹⁰ The ground-breaking resolution 1325 reaffirms 'the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts'. The second Women Peace and Security resolution, 1820 adopted in 2008, stresses that sexual violence targeted at civilians 'can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security.' Both these first Women Peace and Security resolutions affirm the Council's ability to act. Resolution 1325 'expresses the Council's willingness to ensure that its missions 'take into account gender considerations and the rights of women, including through consultation with local and international women's groups'. Resolution 1820 affirms its readiness to 'adopt appropriate steps to address widespread or systematic sexual violence.'

Application of these resolutions are directly relevant to the current situation. The Council and member states must take action for the protection of civilians in Ukraine. WPS resolution 2467, adopted 23 April 2019, makes clear the responsibility of member states in this regard: 'affirming the primary role of Member States to implement fully the relevant provisions of Security Council resolutions on women, peace and security.'

iii) Food

In connection with its primary responsibility for the maintenance of international peace and security the Security Council has committed 'to address conflict-induced food insecurity, including famine, in situations of armed conflict.' It has underlined 'the importance of safe and unimpeded access of humanitarian personnel to civilians in armed conflicts' and after seeking information about denial of access to food has expressed its 'willingness to consider such information and, when necessary, to adopt appropriate steps'.



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The need for a ceasefire

Absent a ceasefire the violations of International Humanitarian Law, including the crime of gender persecution, will persist, and international peace and security will be further disrupted. The UN Security Council has stated obligations as outlined above towards the protection of civilians.

The ceasefire must reflect the obligations in Women Peace and Security Resolution 2467 (2019) which: "Calls upon parties to conflict to ensure that ceasefire and peace agreements contain provisions that stipulate sexual violence in conflict and post-conflict situations as a prohibited act, particularly in provisions relating to disengagement, ensure further that women are present and meaningfully participate in political pre - negotiation and negotiation processes".

Use of missions by UN Security Council:

There is little guidance in the UN Charter or the Provisional Rules of Procedure of the Security Council regarding the use of missions to deliver on its article 24 obligations. Missions have been deployed under the broad powers granted by Article 29 of the UN Charter, according to which the Council "may establish such subsidiary organs as it deems necessary for the performance of its functions". The Council has recognised the importance of interacting with civil society, including women's organizations, during Council field missions.¹¹ The Council has also recognised 'recognizing 'the need for timely information and analysis on the impact of armed conflict on women and girls.¹²

An examination of the Some 70 visiting missions by the Security Council since 1992 reveals a diversity of practices and working methods, pursuing a wide range of goals and purposes. Objectives have included:

- support for a peace process;
- to highlight the dire humanitarian situation;
- to reiterate obligations of the state and non-state actors to comply with International Law including International Humanitarian Law and Human Rights Law;
- to cooperate and work with people in the region; show support for the people (see for instance objectives of the mission to South Sudan, October 2019)



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Composition and Purpose of a mission to Ukraine

A mission, comprising the UN Ambassadors of each of the Member States of the Security Council, should be undertaken within the next 3 weeks so as to give effect to the obligations cited above. It should build on the purpose of previous missions, and in so doing the UN Security Council should commit to:

- determine the immediate causes of the threats to international peace and security;
- identify measures to address the underlying root causes in an inclusive, integrated and sustainable manner';
- verify for itself the extent, nature and severity of the destruction of property and life;
- determine the concrete actions needed to secure and sustain a cease fire;
- determine the gendered impact of the continued violence, including interactive meetings with local women and women's organizations in the field; ¹³
- assess the measures needed for the protection of civilians, especially women and children;
- determine the extent of the humanitarian crisis and measures needed to provide accessible and appropriate relief.

The mission should ensure the application of its own Resolutions on Women Peace and Security, specifically UN Security Council 1325, ensuring the inclusion of the analysis and demands of women and reflecting the range of obligations contained in the 10 Resolutions on Women Peace and Security.

Obligations of Prevention

The President of Ukraine has stated that genocide is being committed in Ukraine. This has yet to be determined, but recalling the decision of the International Court of Justice in the case of Bosnia v Serbia 26th Feb 2007 ¹⁴ it is not an option for the UN Security Council to do nothing. The Court made the following relevant observations:

First, the Genocide Convention is not the only international instrument providing for an obligation on the States parties to it to take certain steps to prevent the acts it seeks to prohibit. Many other instruments include a similar obligation, in various forms : see, for example, the Convention against



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Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (Art. 2) ; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, of 14 December 1973 (Art. 4) ; the Convention on the Safety of United Nations and Associated Personnel of 9 December 1994 (Art. 11) ; the International Convention on the Suppression of Terrorist Bombings of 15 December 1997 (Art. 15).

The Court likened the test for the prevention of prohibited acts to that of Due Diligence while complicity results from commission, violation of the obligation to prevent results from omission ; this is merely the reflection of the notion that the ban on genocide and the other acts listed in Article III, including complicity, places States under a negative obligation, the obligation not to commit the prohibited acts, while the duty to prevent places States under positive obligations, to do their best to ensure that such acts do not occur.

The Court indicated that positive obligation with regard to prevention is on those States which have influence over parties that are engaged in hostilities which could lead to violations of the international law cited. That includes; political, military, or economic influence as well as those in geographic proximity.

Certain members of the UN Security Council as individual States have specific influence, but it can be argued that as all members of the Security Council have influence by dint of their presence in the Council, hence they are obliged to act.