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Transformative Disarmament: Crafting a Roadmap for Peace

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CONTENTS

I.	Introduction.....	834
II.	Exclusion.....	837
III.	Obstacles.....	860
IV.	Reframing.....	881
V.	Transformation	899
VI.	Epilogue	915

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I. INTRODUCTION

In May 2018, sixteen months after taking office, UN Secretary-General Antonio Guterres launched his global disarmament agenda, designating disarmament as a core priority of his tenure.¹ The agenda, which is set out under four thematic strands in the publication *Securing Our Common Future: An Agenda for Disarmament*,² comprises a template of immediate and long-term ambitions. They include the elimination of nuclear weapons, ensuring respect for norms against chemical and biological weapons, mitigating the impact of conventional arms, combatting the illicit trade in small arms and light weapons, maintaining human control of weapons and artificial intelligence, ensuring legal compliance in cyberspace, and resuscitating the multilateral disarmament processes and institutions. Notwithstanding the repeated references to “disarmament,” many of the ambitions set out in the publication are concerned with ensuring that weapons are held, used, and developed in full compliance with international law rather than with the reduction or the elimination of weapons systems per se, save weapons of mass destruction. The agenda is presented in the shape of a “non-paper,” understood in the corridors of power as a discussion paper divorced from and not intended to form part of the official business of the United Nations. The language oscillates between a utopian ambition, captured by the reference to “general and complete disarmament,” and a realism conveyed through a vernacular that is technical, legal, and scientific, if only to stay credible in this domain where State sovereignty is preeminent. Whether it is meant as a peace offering, a reminder, a provocation, or a combination thereof, on the cover of the non-paper is a single paper crane.

Guterres is not the first secretary-general to prioritize disarmament. However, he is the first to emphasize the need for the greater involvement of women in the field of disarmament, arms control, and non-proliferation diplomacy. The proportion of women participating in multilateral forums has increased in recent years. Yet, among State delegations, women remain

1. Antonio Guterres, U.N. Secretary-General, Remarks at the University of Geneva on the Launch of the Disarmament Agenda (May 24, 2018), <https://www.un.org/sg/en/content/sg/speeches/2018-05-24/launch-disarmament-agenda-remarks>.

2. U.N. OFFICE FOR DISARMAMENT AFFAIRS, *SECURING OUR COMMON FUTURE: AN AGENDA FOR DISARMAMENT* (2018), <https://s3.amazonaws.com/unoda-web/wp-content/uploads/2018/06/sg-disarmament-agenda-pubs-page.pdf>.

underrepresented, most notably at senior decision-making levels.³ Notwithstanding their absence in the formal structures of power, women have engaged actively with disarmament for over a century, albeit often as actors located on the periphery. Women's activism in this field is a rich and complex one. It is, however, not a history that is generally familiar to those outside the world of feminist activism and scholarship. This article provides me with an opportunity to tell that story and how women have sought to overcome exclusion, marginalization, and silencing in both policy and law in pursuit of what I describe as a transformative disarmament agenda. In other words, this article is concerned not only with women's political activism and the struggle for equal participation in disarmament circles, critical though it is. What I also seek to demonstrate are the ways in which feminist thinkers have worked to reposition and reframe the disarmament discourse and challenge mainstream thinking on and around weapons and disarmament by probing established assumptions and generating critical analyses in order to provide new solutions to old problems.

To surface this history at this moment in time seems warranted. After all, crises should present the opportunity for critical self-reflection and change.⁴ Existing approaches appear to have delivered little progress. The latest world military expenditure is estimated to have been US\$1,917 billion in 2019—3.6 percent higher than in 2018.⁵ This figure represents the fifth consecutive annual increase and the largest of the decade 2010–2019. Over the last eighteen months the normative regimes governing nuclear arms control and non-proliferation have taken a serious battering and, meanwhile, the global arms industry has recorded unprecedented sales.⁶

This article is divided into four sections. In Part II, I present an account of women's early activism in the field of disarmament against the backdrop of inter-State efforts to advance disarmament through multilateral fora. I

3. RENATA HESSMANN DALAQUA, KJØLV EGELAND & TORBJØRN GRAFF HUGO, *STILL BEHIND THE CURVE: GENDER BALANCE IN ARMS CONTROL, NON-PROLIFERATION AND DISARMAMENT DIPLOMACY* (2019).

4. Louise Arimatsu & Rasha Obaid, *In Times of Crisis*, LSE (June 9, 2020), <https://blogs.lse.ac.uk/wps/2020/06/09/in-times-of-crisis/>.

5. STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE, *SIPRI YEARBOOK 2020: ARMAMENTS, DISARMAMENT AND INTERNATIONAL SECURITY* ch. 8 (Military Expenditure), <https://www.sipri.org/yearbook/2020/08>.

6. Stockholm International Peace Research Institute, *Global Arms Industry: Sales by the Top 25 Companies up 8.5 Per Cent* (Dec. 7, 2020), <https://sipri.org/media/press-release/2020/global-arms-industry-sales-top-25-companies-85-cent-big-players-active-global-south>.

trace the strategies adopted by feminist peace activists⁷ to overcome legal and political barriers in order to shape the content and trajectory of inter-State disarmament efforts, including through the League of Nations. In Part III, I turn my attention to feminist disarmament activism in the post-war period, which has been shaped by two fundamental changes, normative and material. The adoption of the UN Charter and the advent of nuclear weapons have each had profound consequences on how multilateral disarmament has subsequently been pursued and conceptualized. Feminist activism evolved in response to these contextual changes, but, to the extent that legal equality has not translated into de facto equality, women's voices have largely been marginalized or entirely dismissed in the gendered field of weapons and disarmament. This latter point is further elaborated in Part IV, where I turn to feminist scholarship which has sought to conceptually reposition disarmament discussions, revealing how gendered norms, identities, and the structures of power operate to block disarmament efforts.⁸ Common to this scholarship is the view that while transforming gender norms and relations *alone* is unlikely to advance disarmament efforts, without such change, there is little possibility that any meaningful progress can be achieved. Building on these insights, I conclude this article in Part V with some tentative thoughts on the future of disarmament, including in the context of the Security Council's Women, Peace and Security agenda, and reflect on whether international

7. There is no single "feminist" position on war, weapons, or disarmament. Women, nor for that matter feminists, are not a homogenous group. In this article I focus on the tradition of feminist activism that has always been opposed to war-making (and the creation of war systems) and war-fighting as a collective social practice. Not all have necessarily subscribed to pacifism, although there is a strong tendency to reject violence as a means for resolving disagreement. I use the terms "feminist peace activism," "feminist anti-militarism," and "anti-war feminism" interchangeably to denote this tradition of feminists. For further elaboration, see Carol Cohn & Sara Ruddick, *A Feminist Ethical Perspective on Weapons of Mass Destruction*, in *ETHICS AND WEAPONS OF MASS DESTRUCTION: RELIGIOUS AND SECULAR PERSPECTIVES* (Steven P. Lee & Sohail H. Hasmi eds., 2002); Claire Duncanson & Catherine Eschle, *Gender and the Nuclear Weapons State: A Feminist Critique of the UK Government's White Paper on Trident*, 30 *NEW POLITICAL SCIENCE* 545 (2008).

8. Although this article introduces a distinction between activism and scholarship, there is often little that separates the two. As with Marxism and anti-racist postcolonial critiques, feminism is an explicitly political commitment which goes beyond theoretical critique. To borrow from Gramsci, I regard feminism as a philosophy of praxis and share Otto's view that "activism is a form of critique, and critique – even academic critique – is a form of activism." Dianne Otto, *Beyond Stories of Victory and Danger: Resisting Feminism's Amenability to Serving Security Council Politics*, in *RETHINKING PEACEKEEPING, GENDER EQUALITY AND COLLECTIVE SECURITY* 157, 167 (Gina Heathcote & Dianne Otto eds., 2014).

law, reimagined, can more effectively advance disarmament in an age of increasing military spending, rising global tensions, and a noticeable lack of political appetite to advance disarmament.⁹

II. EXCLUSION

“ . . . as a woman, I have no country. As a woman I want no country. As a woman my country is the whole world”

Virginia Woolf, 1938¹⁰

As is well-documented, the idea of the *international fora* as a site for advancing consensual disarmament among States, first proposed by Czar Nicholas II in 1898,¹¹ was initially met with skepticism in capitals around the world.¹² The realists of the day regarded Nicholas II’s appeal, which framed disarmament as a *precondition* to securing inter-State peace, as a cynical political strategy motivated by the desire to end the then ongoing arms race and development of new weapons and new means of delivering them, spheres in which Russia was trailing.¹³ By contrast, the proposal was widely welcomed by the

9. The declaration adopted by States to commemorate the seventy-fifth anniversary of the United Nations, contained a single terse and almost meaningless reference to disarmament that “international arms control, non-proliferation and disarmament agreements and their architectures need to be upheld.” G.A. Res. 75/1, ¶ 9 (Sept. 28, 2020).

10. VIRGINIA WOOLF, *THREE GUINEAS* 197 (1943).

11. The Czar’s rescript, sent to the Great Powers of the day, opens with the declaration that “the maintenance of general peace, and a possible reduction of the excessive armaments which weigh upon all nations, present themselves in the existing condition of the whole world, as the ideal towards which the endeavors of all Governments should be directed.” It continues,

the Imperial Government thinks that the present moment would be very favorable for seeking, by means of international discussion, the most effectual means of insuring to all peoples the benefits of a real and durable peace and, above all, of putting an end to the progressive development of the present armaments.

For the full text of the rescript, see *Peace Conference at The Hague 1899: Rescript of the Russian Emperor, August 24 1898*, AVALON PROJECT, https://avalon.law.yale.edu/19th_century/hag99-01.asp (last visited May 21, 2021).

12. For an account of some of the reaction among capitals and within civil society to the Czar’s proposal, see Daniel Hucker, *British Peace Activism and ‘New’ Diplomacy: Revisiting the 1899 Hague Peace Conference*, 26 *DIPLOMACY AND STATECRAFT* 405 (2015).

13. But see Hucker, who notes how the Czar’s proposal was very much influenced by Ivan Bloch’s publication in 1898. Bloch had argued that the “real Utopians . . . are those

European and US-based transnational peace movements, which had long been calling for the reduction in arms as a necessary condition to peace on the grounds that excessive levels of weapons increased the tendency of States to resort to military force as the primary instrument of statecraft.¹⁴ Peace activists had further argued that disarmament was *desirable* on social justice grounds since resources could be redirected to human needs and away from unproductive military purposes. Although the peace movements were dominated by men, many women had also joined, not least because such collectives offered a potential platform through which they could express their opinions on political issues of the day in light of their legal exclusion from the formal structures of power.¹⁵

By the opening of the 1899 Hague Peace (and Disarmament) Conference, and following intensive negotiations among States, two additional matters for deliberation had been added to the agenda: the regulation of warfare and the use of arbitration to resolve disputes.¹⁶ As peace activist Bertha von

who believe in war [for they] are wasting the resources of civilisation” making disarmament necessary. *Id.* at 408. For a more comprehensive assessment of the factors that influenced the Czar’s decision, see John Mack, *Nicholas II and the Rescript for Peace of 1898: Apostle of Peace or Shrewd Politician?*, 31 *RUSSIAN HISTORY* 83 (2004). Mack suggests that a close reading of the rescript indicates that Nicholas was not calling for disarmament but only a halt to the arms race. The arms race must be seen within the broader context of imperialist expansion and the advent of the industrial revolution which, by the mid-nineteenth century, was transforming the technologies of modern industry (civilian and military), the means and methods of warfare, weapons development, the production of military hardware, and the relationship between private industry and the State. *See, e.g.*, William H. McNeill, *The Industrialization of War*, 8 *REVIEW OF INTERNATIONAL STUDIES* 203 (1982).

14. There is now a considerable body of literature on the emergence of the peace movements that were very much part of the political landscape in late nineteenth century Europe and North America. *See, e.g.*, PETER BROCK, *PIONEERS OF THE PEACEABLE KINGDOM* (1968); SANDI E. COOPER, *PATRIOTIC PACIFISM: WAGING WAR ON WAR IN EUROPE 1815-1914* (1991); ROGER CHICKERING, *IMPERIAL GERMANY AND A WORLD WITHOUT WAR: THE PEACE MOVEMENT AND GERMAN SOCIETY 1882-1914* (1975); HELOISE BROWN, *THE TRUEST FORM OF PATRIOTISM: PACIFIST FEMINISM IN BRITAIN, 1870-1902* (2018). Critical scholars have been careful to register the different philosophical traditions, origins, and priorities of these movements, which did not always share common objectives, nor for that matter strategies.

15. The right to vote was extended to all adult men decades before it was to women. In Britain, for example, full suffrage was not recognized until 1928, in France not until after WWII, and in Switzerland not until the 1970s.

16. For the Russian circular of January 11, 1899, see *Peace Conference at The Hague 1899: Russian Circular January 11, 1899*, AVALON PROJECT, https://avalon.law.yale.edu/19th_century/hag99-02.asp (last visited May 21, 2021). Six months after it was first sent, the rescript

Suttner would later remark, the introduction of questions concerning “military customs and the humanizing of war into the deliberations of the Peace Conference” was a “wedge . . . calculated to rob [the conference] of its individual character.”¹⁷ Even before the opening of the Conference, it was clear that States had little intention to advance disarmament. This fact was tellingly captured by the view expressed by even Russia’s delegate to the Conference, Feodor de Martens, that “the Utopians, the most dangerous enemies of the progress of international law, expected from this Conference a general disarmament of all the Powers, eternal peace and the abolition of war.”¹⁸

Chief amongst the “utopians” were the women peace activists and, most notably, the Women’s League for International Disarmament (*Ligue des Femmes pour le Désarmement International*) which delivered to the delegates a petition, with over half a million signatures, in support of disarmament. This “remarkable feat,” as Sandi Cooper notes, was largely ignored by the male

was amended to reflect the exchanges among states. For a discussion of the amended text, see 2 BERTHA VON SUTTNER, MEMOIRS OF BERTHA VON SUTTNER: THE RECORDS OF AN EVENTFUL LIFE 227–28 (1910).

17. VON SUTTNER, *supra* note 16, 228–29. As von Suttner notes, “when the text of the second circular is compared with the first, it can be seen how much water had been poured into the fiery wine that was first offered to the world.” *Id.*

18. Feodor de Martens, *International Arbitration and the Peace Conference at The Hague*, 169 THE NORTH AMERICAN REVIEW 604 (July 1, 1899). This view was not uncommon among the participating delegates. For example, in preparation for the conference Britain’s War Office sought to demonstrate how “increased armaments enhanced the prospects of peace and lessened the horrors of war.” More specifically, the War Office concluded that “it is not desirable that any undertaking should be given restricting the numbers or the cost of Her Majesty’s Military Forces”; “it is not desirable to agree to any restrictions upon the employment of further developments in destructive agencies, whether in small arms, cannon, or explosives; or the methods of employing them”; and, finally, “it is not desirable to assent to an international code on the laws and customs of war.” Draft of Instructions for Peace Conference 1899 (on file with The National Archives, Kew, Sir John Ardagh Papers, Manuscript Collections, PRO 30/40/15) (emphasis added). Likewise, as forcefully argued by US representative Richmond Hobson,

the proposition for universal disarmament at the present time flies into the face of the most fundamental law of life and its advocacy can only harm the cause of peace for which it professes allegiance. It is preposterous to advocate disarmament until some effective substitute for armaments is offered as a means of national self-preservation.

Richmond Pearson Hobson, *Disarmament*, 2 AMERICAN JOURNAL OF INTERNATIONAL LAW 746, 734 (1908).

peace community which had cautioned *against* pressing for disarmament.¹⁹ In fact, in the run-up to the Conference, the male-dominated leadership of the established peace movements had decided to direct their efforts *not* to disarmament but to the establishment of an international arbitration mechanism, a core institutional element of a Kantian inspired new global order founded on a then-nascent field of international law.²⁰ This strategic repositioning may have aligned more closely with the priorities of the major powers but it did little to deter feminist peace activists from actively pressing for disarmament as a necessary element of a broader strategy to secure inter-State peace. An international arbitration mechanism was essential to prevent conflict, they reasoned, but not at the expense of delaying disarmament. Moreover, for many women, the primary sources of insecurity were those they confronted daily in the shape of economic and social insecurity. The increasing expenditure on weapons, justified by the State as advancing security, did not reflect their lived experience. The permanent war economy and the diversion of resources from human needs to unproductive military purposes was not only an anathema, but founded on a fiction that did not correspond to their reality.

The 1899 Conference was a huge disappointment for women activists and especially for those who—often at huge personal cost, financially and socially—had gathered in The Hague seeking opportunities to influence the delegates during the two months of negotiations.²¹ With the exception of a

19. Sandi Cooper, *French Feminists and Pacifism, 1889-1914: The Evolution of New Visions*, 36 PEACE & CHANGE 5, 13 (2011). The position taken on disarmament by the mainstream peace movements of the day appears to be far more equivocal than commonly acknowledged. As Cooper's scholarship reveals, in 1893 Frederic Passy, spokesman for the French pacifist movement, stated "disarmament was obviously the distant aim of our efforts, the moment had not come to ask for it . . . to make what would appear to be an attack on the army or what could be interpreted as a weakening of discipline, was totally contrary to our method." *Id.* at 13.

20. According to Cooper, when the Women's League for International Disarmament (*Ligue des Femmes pour le Desarmement International*) was first established in 1896, Passy had strongly advised against using the word "disarmament." *Id.* at 13–14. See also Hucker, *supra* note 12, at 411, who describes the British government's antipathy towards disarmament in the run up to the conference as "not entirely out of step with the ambitions of peace enthusiasts").

21. What is often forgotten is that in contrast to the official delegates, whose attendance was supported by public funds, many of the women were reliant on private financial support and support in-kind from their families.

handful of high-profile figures,²² most of the women found themselves consigned to the margins, doubly excluded, as peace activists and as women. Political activism was not a new experience for many. Notwithstanding their exclusion from the formal political fora, women had long been active in various overlapping social movements throughout the nineteenth century, having recognized that political influence could be wielded through collective action. As Laure Bereni and Anne Revillard observe, the ideology of the separate spheres of public and private was

shaken during the nineteenth century by the growing and multifaceted engagement of women in collective action, usually organized both *among* women and *as* women [and] it was within the gap between public and private, in the space of social, religious, or civic commitments where their presence was tolerated, that women became active.²³

By the late nineteenth century, women-led organizations had mushroomed to *also* focus on issues that were of particular concern to women, such as the status of married women, women's nationality, women's working conditions, child welfare, and trafficking, thus filling the voids. Many women had also joined mainstream peace movements but, when they found themselves being marginalized *within* these movements, which were replicating and reproducing the same patterns of exclusion practiced by the State, women began to form their own peace organizations.²⁴

This break enabled women peace activists to subscribe to a far broader internationalist agenda and to pursue a more radical strategic outlook than

22. Foremost among those present was peace activist and journalist, Bertha von Suttner. According to Levenson, von Suttner's residence "became a meeting point for diplomats and leading members of the peace movement" during the 1899 Peace Conference. Alan T. Levenson, *Theodor Herzl and Bertha von Suttner: Criticism, Collaboration and Utopianism*, 15 JOURNAL OF ISRAELI HISTORY 213, 222 (1994).

23. Laure Bereni & Anne Revillard, *Un Mouvement Social Paradigmatique? [A Paradigmatic Social Movement?]*, 85 SOCIÉTÉ CONTEMPORAINES 17, 21 (2012).

24. Leading peace activist Carrie Chapman Catt is reported to have described the established peace societies as "very masculine in their point of view" and "have as little use for women . . . as have the militarists." *Quoted in* Lina Schott, *The Woman's Peace Party and the Moral Basis for Women's Pacifism*, 8 JOURNAL OF WOMEN STUDIES 18, 24 (1985). This pattern of marginalization was not unique to the peace movements but replicated in all mainstream social movements, including those dedicated to labor. It was not uncommon for women to be excluded or denied access to decision-making positions within trade unions, reinforcing the inequalities confronted by women in the workforce. Geert Van Goethem, *An International Experiment of Women Workers: The International Federation of Working Women 1919-1924*, 84 REVUE BELGE DE PHILOGIE ET D'HISTOIRE 1025, 1047 (2006).

their male counterparts.²⁵ In particular, progressive feminists called for greater attention to be paid to the gendered social cost of the arms race and, through sophisticated critiques of imperialism, militarism, and women's oppression, urged that the links between social and international justice be fully recognized.²⁶ Thus, the convening of the 1899 Conference signalled a pivotal moment for women's peace activism: women began to shape their own distinct feminist agenda over the question of disarmament.

As for the Conference itself, insofar as general arms reduction was concerned, little was achieved by States save for the adoption of a *voeu* (or a statement of future hopes) which called for further study on the technical challenges of limiting specific weapons and the general problem of limiting armed forces or military budgets.²⁷ That said, the Conference paved the way for the emergence of a wholly new model of civil society engagement in the shaping of international policy and law, a fact that did not go unnoticed by feminist peace activists of the day.²⁸

25. For example, the women's peace groups were far more critical of the colonial wars being waged by their own governments than their male contemporaries. Eliza Riedi, *The Women Pro-Boers: Gender, Peace and the Critique of Empire in the South African War*, 86 HISTORICAL RESEARCH 92 (2013). French feminist pacifists, too, were outspoken in their criticism of Britain's part in the Boer War, in sharp contrast to the male-led peace societies that were far more reluctant to engage in public condemnation given France's own colonial history. Cooper, *supra* note 19, at 14.

26. HELOISE BROWN, *THE TRUEST FORM OF PATRIOTISM: PACIFIST FEMINISM IN BRITAIN, 1870-1902* (2003). See generally Cooper, *supra* note 19. Some of the early feminist work cited by Cooper would inform the writing and thinking of leading feminist peace activist Jane Addams. For example, in *Never Ideals of Peace*, Addams exposes how militarism is deeply embedded in everyday culture. JANE ADDAMS, *NEVER IDEALS OF PEACE* (1907).

27. The only agreement reached on disarmament was that "the restriction of military charges, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind." DIVISION OF INTERNATIONAL LAW, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, *THE PROCEEDINGS OF THE HAGUE PEACE CONFERENCES: THE CONFERENCE OF 1899*, at 233 (1920). While Geoffrey Best describes the conference as a "misnomer," more recent academic literature suggests that the conferences did contribute to paving the way for disarmament negotiations in subsequent years. Geoffrey Best, *Peace Conferences and the Century of Total War: The 1899 Hague Conference and What Came After*, 75 INTERNATIONAL AFFAIRS 619, 631 (1999); George Aldrich & Christine Chinkin, *A Century of Achievement and Unfinished Work*, 94 AMERICAN JOURNAL OF INTERNATIONAL LAW 90 (2000).

28. In the run-up to the conference, the leaders of the peace movements had captured the public's imagination and, consequently, were able to exert some influence both within and outside government. James Tryon, *The Rise of the Peace Movement*, 20 YALE LAW JOURNAL 358, 371 (1911). That said, it is difficult to assess with any accuracy just how much persuasive

Between 1899 and the Second Hague Peace Conference in 1907, expenditure on armaments by most States increased. Motivated by the prohibitive costs of the arms race, coupled with increasing public pressure for disarmament, it was Britain, rather than Russia,²⁹ which pressed for a second conference and the opportunity to revisit the question of disarmament.³⁰ Yet, even before the final invitations to the conference had been issued, and certainly by the time “the most eminent men of [the participating] countries”³¹ had gathered in The Hague, the political elites were aware that the proposal for a limitation of armaments was “moribund.”³² Disarmament remained on the agenda, although little time was accorded to the topic. As Scott Andrew Keefer notes, “statesmen could appease pacifistic and economy-minded domestic constituencies and return from the Netherlands having at least tried to reduce expenditure on armaments.”³³ A somewhat bitter

force is ever wielded by civil society. Although the delegates for the most part saw civil society as a “distraction,” they soon recognized that public opinion could provide a useful tool in the process of treaty negotiations. David D. Caron, *War and International Adjudication: Reflections on the 1899 Peace Conference*, 94 *AMERICAN JOURNAL OF INTERNATIONAL LAW* 16 (2000). On the peace movements as the precursors to the international non-governmental organizations that exist today, see MARY KALDOR, *GLOBAL CIVIL SOCIETY: AN ANSWER TO WAR* 87 (2003).

29. As Keefer suggests, having lost its navy in the 1904–05 war with Japan, it was not in the strategic interests of Russia to engage in any exchanges that would risk limiting its ability to rebuild its military capabilities. Scott Andrew Keefer, *Building the Palace of Peace: The Hague Conference of 1907 and Arms Control before the World War*, 9 *JOURNAL OF THE HISTORY OF INTERNATIONAL LAW* 35, 39 (2007).

30. The vast majority of European States had little interest in returning to discuss disarmament. For a useful analysis on the domestic political factors that shaped disarmament policies among the military powers during this period, see generally *id.* By contrast, in Britain, the Liberals had come to power on an electoral promise to cut military expenditure, which in turn raised public expectations. Daniel Hucker, *Our Expectations Were Perhaps Too High: Disarmament, Citizen Activism and the 1907 Hague Peace Conference*, 44 *PEACE & CHANGE* 10 (2019). During the intervening years, both the British prime minister and US president had spoken publicly in favor of disarmament, raising expectations among the general public. Hamilton Holt, *The United States Peace Commission*, 192 *THE NORTH AMERICAN REVIEW* 301, 308 (1910).

31. Opening Address by M. Nelidow, the Russian Ambassador and President of the 1907 Conference, 1 *DIVISION OF INTERNATIONAL LAW, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE, THE PROCEEDINGS OF THE HAGUE PEACE CONFERENCES, THE CONFERENCE OF 1907*, at 47 (1920).

32. MERZE TATE, *THE DISARMAMENT ILLUSION: THE MOVEMENT FOR A LIMITATION OF ARMAMENTS TO 1907*, at 327 (1942).

33. Keefer, *supra* 29, at 57.

paradox for the peace activists was that *the* lasting legacy of the 1907 Conference came in the shape of the progressive development of international humanitarian law (IHL) with the adoption of the Hague conventions that sought to humanize warfare. Moreover, the decision by States to focus on the prohibition of specific weapons was to pave the way for a fragmented approach to be established and normalized at the expense of a more ambitious program of general disarmament. Once again, the only agreement reached on disarmament was the reaffirmation of the *voeu* of 1899, namely, “for governments to undertake again the serious examination of this question.”

With the outbreak of World War I in July 1914, the Third Hague Conference, scheduled to be convened in 1915, was canceled. However, war did not stop over a thousand feminist peace activists from belligerent and neutral States from gathering there between April 28 and May 1, despite official resistance and at enormous personal cost.³⁴ Most of the women had met before through the International Women’s Suffrage Alliance (the primary sponsors of the conference) and recognized the strategic value of coordinating internationally.³⁵ The resolutions adopted by the women after four days of deliberation have been described as “visionary” by scholars, not least for their appeal to international law. The principles and goals identified in the resolutions foreshadowed the normative and institutional developments that

34. Delegates from one German city were subsequently prosecuted for treason and incarcerated for having attended the 1915 peace congress. JANE ADDAMS, *PEACE AND BREAD IN TIME OF WAR* 15 (1922). Addams recounts how, on return, many of the women experienced angry abuse and ridicule and were depicted as cowards and ostracized by their own communities, not only for their pacifist ideals but as women for failing to conform to gender stereotypes. For accounts of the 1915 conference and WILPF’s early history, see HARRIET HYMAN ALONSO, *PEACE AS A WOMEN’S ISSUE: A HISTORY OF THE US MOVEMENT FOR WORLD PEACE AND WOMEN’S RIGHTS* ch. 3 (1993); LEILA J. RUPP, *WORLD OF WOMEN: THE MAKING OF AN INTERNATIONAL WOMEN’S MOVEMENT* ch. 2 (1997); MELINDA PLASTAS, *A BAND OF NOBLE WOMEN: RACIAL POLITICS IN THE WOMEN’S PEACE MOVEMENT* (2011); Mary K. Meyer, *The Women’s International League for Peace and Freedom: Organizing Women for Peace in the War System*, in *GENDER POLITICS IN GLOBAL GOVERNANCE* (Mary Meyer & Elisabeth Prugl eds., 1999).

35. The conference was chaired by Jane Addams of the newly formed US-based Woman’s Peace Party which was established in early 1915 in response to an appeal by peace activists Emmeline Pethick-Lawrence from the United Kingdom and Rosika Schwimmer from Hungary to US women who were protesting against the war in Europe. With the outbreak of war in Europe, women in the United States formed several organizations, including the Union Against Militarism and the Woman’s Peace Party. In later years Addams would co-found the American Civil Liberties Union and the National Association for the Advancement of Colored People. She was awarded the Nobel Prize for Peace in 1931.

would be embraced by States over the following century, including, for example, respect for the territorial integrity of States; the right to self-determination; the creation of a permanent international conference and a permanent International Court of Justice; a system of pacific settlement of disputes; and the enfranchisement of women.³⁶ The “Women and War” resolution, the first of many on the topic that would subsequently be adopted by the Women’s International League for Peace and Freedom (WILPF), expressly drew attention to the different and disproportionate impact of conflict on women, thereby laying the conceptual foundations for a gendered understanding of war and peace.³⁷ Insofar as disarmament was concerned, the activists were unambiguous in advocating for “universal disarmament.”³⁸

Many of the proposals were subsequently integrated into Wilson’s Fourteen Points, bar the call for universal disarmament and equality. The latter, it was deemed, was a matter governed by domestic, not international, law.³⁹

36. WOMAN’S PEACE PARTY, REPORT OF THE INTERNATIONAL CONGRESS OF WOMEN 14 (1915), <https://ia800306.us.archive.org/15/items/internatcongrewom00interich/internatcongrewom00interich.pdf> [hereinafter 1915 CONGRESS REPORT]. For a detailed account of the proceedings, see INTERNATIONAL WOMEN’S COMMITTEE FOR PERMANENT PEACE, INTERNATIONAL CONGRESS OF WOMEN REPORT (1915), <https://ia803101.us.archive.org/29/items/berichtrappotre45wome/berichtrappotre45wome.pdf>. Jane Addams personally met with President Wilson after the Congress. Wilson incorporated many of her recommendations into his Fourteen Points speech. For full text of Wilson’s speech, see Woodrow Wilson, President of the United States, The Fourteen Points, Speech to Congress (Jan. 8, 1918), AVALON PROJECT, https://avalon.law.yale.edu/20th_century/wilson14.asp.

37. The recognition that women experienced war differently and that they were often disproportionately adversely affected was vividly captured by Emily Hobhouse. See EMILY HOBHOUSE, THE BRUNT OF WAR AND WHERE IT FELL (1902).

38. As a first step to securing that end, the resolution called for an international agreement to “take over the manufacture of arms and munitions of war” and “control all international traffic in the same” on the basis that “the private profits accruing from the great armament factories [was] a powerful hindrance to the abolition of war.” 1915 CONGRESS REPORT, *supra* note 36, at 14. In its inaugural meeting in January 1915, the Woman’s Peace Party likewise called for “the nationalization of arms manufacture” but rather than universal disarmament advocated for the “limitation of armaments.” WOMAN’S PEACE PARTY, YEAR BOOK OF THE WOMAN’S PEACE PARTY (1916). In its resolution the Woman’s Peace Party further called for “organized opposition to militarism; education of youth in the ideals of peace; the extension of the suffrage to women; the substitution of law for war.” ADDAMS, PEACE AND BREAD, *supra* 34, at 7.

39. The political classes continued to insist that equality was a matter governed by domestic, not international law. As leading feminist peace activist, Rosika Schwimmer commented on the outbreak of war, “if there is a clear conscience among our women that they had no part in the voting of funds to give men arms with which to slay, there is also the

On disarmament, rather than universal, what Wilson proposed was the *reduction* in national armaments “to the lowest point consistent with domestic safety,” a phrasing that continues to be used to this day notwithstanding its ambiguity. Nevertheless, disarmament was once more placed squarely on the international agenda reinforced by the popular belief—and importantly one that was shared by some within States—that the arms race had *created* insecurity, thereby making war inevitable.⁴⁰

This reasoning was incorporated into the Treaty of Versailles, which required, as a first step, the disarmament of Germany “to render possible the initiation of a general limitation of armament of all nations.”⁴¹ The weight accorded to disarmament was further entrenched by entrusting the League of Nations, founded with the adoption of the Treaty of Versailles, with the task of advancing international disarmament as its principal aim. Article 8 of the League’s Covenant, the first operative article, expressly recognized that “the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations” and set out a blueprint for action to that effect, including a requirement for the League’s Council to address the issue of the manufacture of arms by private enterprise.⁴² In the early years,

feeling that they have been frightfully wronged while their hands were tied by a refusal of rights.” Beth S. Wenger, *Radical Politics in a Reactionary Age: The Unmaking of Rosika Schwimmer, 1914-1930*, 2 JOURNAL OF WOMEN’S HISTORY 66, 70 (1990).

40. For example, a decade after leaving his post as British Foreign Secretary in 1916, Sir Edward Grey would write, “the enormous growth of armaments in Europe, the sense of insecurity and fear caused by them—it was these that made war inevitable.” 1 VISCOUNT GREY OF FALLODON, TWENTY-FIVE YEARS: 1892-1916, at 90 (1925).

41. Treaty of Versailles pt. V, June 28, 1919, 3 U.S.T. 3714, 225 C.T.S. 189.

42. Article 8 continues:

The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments. Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.

significant efforts were directed towards addressing these latter goals as well as with prohibiting chemical and bacteriological methods of warfare.⁴³ However, steps to advance the far more ambitious objective of reducing “national armaments to the lowest point consistent with national safety” were deferred until 1926.

Excluded from the official proceedings of the Paris Peace Conference, but undeterred, the women of WILPF convened their second conference in Zurich in 1919.⁴⁴ The fact of exclusion would be turned on its head as a strategic advantage. By convening parallel transnational gatherings, feminist peace activists could ensure the airing of alternative perspectives through a public platform and concurrently strengthen bonds within their own organizations and consolidate relations with other women’s movements that were similarly excluded.⁴⁵ Moreover, unencumbered by the constraints imposed

The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes and the condition of such of their industries as are adaptable to war-like purposes.

League of Nations Covenant art. 8. In addition, Articles 22 and 23 required the League to take measures to regulate the global arms trade.

43. These efforts would culminate in the adoption of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, June 17, 1925, 26 U.S.T. 571, 94 L.N.T.S. 65, *reprinted in* 14 INTERNATIONAL LEGAL MATERIALS 49 (1975).

44. For details of the proceedings, see WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, REPORT OF THE INTERNATIONAL CONGRESS OF WOMEN, ZURICH, MAY 12 TO 17, 1919 (1919) [hereinafter 2ND CONGRESS REPORT].

45. Also excluded from Versailles were women who had been active in the labor movement prior to the war. As with the feminist peace activists, feminist labor activists formed their own organization—the International Congress of Working Women—and in October 1919 convened a conference in Washington, D.C. to run in parallel to the first conference held by the newly established International Labour Organisation, which had been created by the Versailles Treaty. In her address to the delegates, Mary van Kleeck expressed an indignation that was shared by all feminist activists of the period:

Women have had no direct part in writing the terms of the [1919] Peace Treaty. It is a man-made peace. Women have had no direct share in the labor charter of the treaty. The agenda of the coming [ILO] conference, with its emphasis on the protection of women rather than the participation of women in plans to protect themselves and others, is significant of the attitude of men, even in the labor movement, toward the industrial position of women. . . . [W]e have yet to win the right to a wage based on precisely the same considerations that determine the wages of men.

by domestic politics and a State-centric framework defined by national security, feminist peace activists were better placed to unite over a more progressive internationalist agenda. WILPF was hugely critical of terms of the Versailles Treaty for adopting a differentiated approach to disarmament—one that was enforced and immediate for the vanquished, and consensual and prospective for the victors—which, it was maintained, was not a tenable basis upon which to secure a sustainable peace.⁴⁶ Instead, activists called for an “immediate reduction of armaments [by all States] on the same terms for all

Mary van Kleeck, Address at the First Convention of International Conference of Working Women, The Task of Working Women in the International Congress (Oct. 28, 1919). See First Convention of International Conference of Working Women, Washington, DC, 33 (Oct. 28, 1919) (on file with the Mary van Kleeck Papers, 1883–1972, Sophia Smith Collection, Women’s History Archive, Smith College Library, Box 71, Folder 10). See also Christine Chinkin, *100 Years of Peace Activism: Linking the International Labour Organisation with the WPS Agenda*, LSE (Dec. 16, 2019), <https://blogs.lse.ac.uk/wps/2019/12/16/100-years-of-peace-activism-linking-the-international-labour-organisation-with-the-wps-agenda/>.

46. On receipt of an advance copy of the peace treaty, WILPF adopted a series of resolutions condemning the terms imposed, including on the grounds that “by the demand for the disarmament of one set of belligerents only, the principle of justice is violated and the rule of force is continued.” The resolution also expressed

deep regret that the Terms of the Peace proposed at Versailles should so seriously violate the principles upon which alone a just and lasting peace can be secured, and which the democracies of the world had come to accept. By guaranteeing the fruits of the secret treaties to the conquerors, the Terms of Peace tacitly sanction secret diplomacy, deny the principles of self-determination, recognize the right of the victors to the spoils of war, and create all over Europe discords and animosities, which can only lead to future wars.

2ND CONGRESS REPORT, *supra* note 44. WILPF was the first international body to issue a considered criticism of the Covenant of the League of Nations, although other transnational women’s organizations were equally critical of the Versailles Treaty. In *Peace and Bread in Time of War*, Addams writes:

In planning a congress of women it was borne in mind that the official Conference at the end of the war determining the terms of peace would be largely composed of diplomats who are necessarily bound by the traditional conventions which have so long dominated all intercourse between nations. Because in every country such men are seldom representative of modern social thought and the least responsive to changing ideas, it was considered supremely important that when the conference of diplomats should come together, other groups should convene in order to urge the importance of certain interests which have hitherto been inarticulate in international affairs. This need had been recognized not only by the women but by international organizations of labor, by the Zionists and similar groups, who were also planning to hold Congresses at the same time and in the same place as the official Peace Conference After the War.

ADDAMS, PEACE AND BREAD, *supra* note 34, at 152–53.

member-states”⁴⁷ and urged States to go *beyond* the terms of the Covenant and commit to “total disarmament (land, sea, air).”⁴⁸ Dissatisfied with only holding States to account, and recognizing that the arms industry consisted of a partnership between public and private sectors, WILPF also resolved, once the League was operational, to press it “to appoint an International Commission, to sit in public, with power to take evidence on oath and to command the attendance of any witness it may desire to call, to enquire into the fact regarding profit-making due to war and preparation for war.”⁴⁹

The creation of the League marked a key development for international feminist activism. Targeted lobbying by women’s groups during the Paris Conference had resulted in the inclusion of a non-discrimination provision giving them an institutional foothold. Article 7 of the League of Nations Covenant expressly provided for the representation of women by stating that “all positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.” Although women delegates were typically appointed to committees that were concerned with issues such as social welfare and children’s protection, the very existence of the League, which was tasked with progressing disarmament, meant that multiple opportunities were created for collective interventions by feminist activists operating within and from outside the institution.⁵⁰ The inter-war years saw feminist peace activists coalesce around two objectives: universal disarmament and the regulation of the private arms trade.⁵¹ Although disarmament was a core priority for WILPF, it was not the only women’s organization pressing for universal and total disarmament during this period. For example, following the United States’ announcement in 1921 of its intention to host a Limitation of Armaments conference “to bring about an all around reduction in

47. 2ND CONGRESS REPORT, *supra* note 44, at 244.

48. *Id.* at 245.

49. *Id.* at 254.

50. See, in particular, the assessment by Catherine Marshall of the significance of the inclusion of women into the formal structures of the League. WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, REPORT OF THE THIRD INTERNATIONAL CONGRESS OF WOMEN 64–68 (1921) [hereinafter 3RD CONGRESS REPORT].

51. For example, in 1924 WILPF adopted an amended constitution reaffirming as one of its four core objectives “complete and universal disarmament on land, on sea, and in the air, [and] for the abolition . . . of the prostitution of science for destructive purposes.” WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, REPORT OF THE FOURTH CONGRESS OF THE WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM 56 (1924) [hereinafter 4TH CONGRESS REPORT].

naval and if possible other armaments,”⁵² the International Federation of Working Women, representing forty-eight nations, unanimously adopted a resolution supporting “a policy of total disarmament” and urged participating States to “take steps toward the immediate disarmament of the Nations.”⁵³ Disarmament, it was reasoned, was necessary if the risk of war was to be averted.⁵⁴ Moreover, increases in military expenditure could not be justified against the backdrop of rising unemployment and poverty.⁵⁵ Feminist activists were acutely aware of the divergence between their stated aims and the far less ambitious program being crafted by States.⁵⁶ Although WILPF

52. As made clear by President Harding’s invitation, which read: “the enormous disbursements in the rivalries of armaments manifestly constitute the greater part of the encumbrance upon enterprise and national prosperity,” the United States was motivated by the desire to avert the looming arms race in the Pacific, as were the other participating States. *Conference on Limitation of Armament, President’s Invitation to Powers*, 21 INTERNATIONAL LAW STUDIES 1, 1 (1922).

53. International Federation of Working Women, Resolution on Disarmament, Second International Congress (1921).

54. In her address to the International Congress of Working Women, President of the National Women’s Trade Union League of America, Margaret Dreier Robins, stated, “The first tasks of the working women of the world, to which we here stand dedicated, is to make war against war. The first battle in that war is to stop increasing armaments. Armaments breed war.” Margaret Dreier Robins, President of the National Women’s Trade Union League of America, Address at the International Congress of Working Women Meeting, Geneva, Switzerland (Oct. 17, 1921).

55. For example, the resolution adopted in June 1921 by the National Women’s Trade Union League (US) notes that,

the hunger, suffering and misery of the people of the world following the tragedy of the Great War, challenges the intelligent leadership of mankind with this supreme opportunity to liberate humanity from the crushing burden and menace of increasing armaments . . . and . . . the present programs for increasing armaments are not only economically intolerable but also continue the terror and panic of the peoples of the world, delaying reconstruction and preventing an effective peace.

International Congress of Working Women, Bulletin No. 11, July-Aug. 1921 (on file in the Mary van Kleeck Papers, 1883–1972, Sophia Smith Collection, Women’s History Archive, Smith College Library, Box 72, Folder 4).

56. See, for example, Gertrude Baer’s call to the delegates at the Second Congress of the International Federation of Working Women that, “the limitation of armaments is nothing; let it be ‘Total disarmament or nothing.’” International Federation of Working Women, Second International Conference (1921). Not all feminist collectives urged for universal disarmament, some preferring to support a strategy to limit/reduce military expenditure. For example, the resolution adopted by the National Women’s Trade Union League (US) in June 1921 referred specifically to the terms of the Treaty of Versailles and to the obligation

would welcome the proposed naval conference “as a step in the direction” to universal total disarmament, its National sections were encouraged to “emphatically and continuously insist upon the original meaning of the term ‘disarmament’ in its literal sense, thus preventing the use of the term as a camouflage for ‘reduction of armaments.’”⁵⁷ The optimistic assessment by States of what had been achieved with the adoption of the 1922 Washington Naval Treaty⁵⁸ was certainly not shared by feminist peace activists who, for the most part, regarded the treaty as “a disappointment.”⁵⁹ The widening chasm between feminist expectations of disarmament—understood as universal and total—and the outcome of treaty negotiations that were delivering, at most, a reduction or limitation of certain classes of weapons and weapons systems remained a huge source of frustration for activists.

To exert greater pressure on the political class to commit to a far more extensive program of disarmament, the inter-war period saw the piloting of multiple transnational strategies by feminist activists, including the systematic collection of data for the purposes of targeted political lobbying;⁶⁰ the

“to a limitation of armaments” and urged President Harding “to invite Great Britain and Japan to a Conference to arrange a limitation of naval armaments by agreement.” Robins, *supra* note 54.

57. 3RD CONGRESS REPORT, *supra* note 50, at 121–22.

58. Following the conclusion of the treaty, the report of the American delegation concluded,

It is obvious that this agreement means ultimately an enormous saving of money and the lifting of a heavy and unnecessary burden. The treaty absolutely stops the race in competition in naval armament. At the same time it leaves the relative security of the great naval powers unimpaired. No national interest has been sacrificed; a wasteful production of unnecessary armament has been ended.

Report of the American Delegation submitted to the President, February 9, 1922, Limitation of Armament, 21 INTERNATIONAL LAW STUDIES 257, 278 (1922). The assessment proved over-optimistic in that loopholes in the treaty text were to lead to two further rounds of inter-State negotiations in 1927 and 1930. These conferences on naval arms limitation were not held under the auspices of the League of Nations. For the full text of the 1921 conference, see CONFERENCE ON THE LIMITATION OF ARMAMENTS (NOVEMBER 12, 1921 TO FEBRUARY 6, 1922) (1922), <https://ia600207.us.archive.org/19/items/conferenceonlimi00cana/conferenceonlimi00cana.pdf>.

59. 4TH CONGRESS REPORT, *supra* note 51, at 56.

60. For example, WILPF sections across the world were tasked with documenting the obstacles to disarmament confronted by activists in their respective countries as well as the barriers to tackling militarism in order to provide the leadership with the tools for exerting political pressure in international fora. *See id.* at 111. In the United States, in particular,

expansion of self-education programs;⁶¹ and the promotion of public education initiatives⁶² coupled with targeted interventions and campaigns around international events and conferences on disarmament.⁶³ In particular, feminist activists fully appreciated the importance of being recognized as experts in the field of weapons and weapons systems if they were to be heard in mainstream discussions on disarmament and the regulation of the arms trade. In 1924 WILPF urged sections “to investigate the development of chemical warfare and its special dangers and to organize opposition, both to end it and as a means of educating the masses as to the real character of war in general”⁶⁴ and invited their members, Gertrud Woker, Naima Sahlbom, and Ester Akesson-Beskow to form the International Committee Against

WILPF’s lobbying power was significant. According to Plastas, WILPF’s Dorothy Detzer was one of the most effective lobbyists in the 1920s and 1930s as demonstrated by the fact that, on the eve of London Naval Conference in 1930, President Hoover invited her to a private meeting to justify why the United States was not advocating for complete disarmament and to ask that WILPF ease its disarmament campaign. PLASTAS, *supra* note 34, at 12.

61. Women’s organizations, including WILPF, regularly hosted “summer schools” and workshops inviting expert guests to speak on topical questions of the day. These programs were as much about informing themselves as well as “to enlighten public opinion by propaganda and education.” See also Earle on the strategies adopted by other peace movements of the day, describing them as “a quantum leap in ideological and tactical sophistication over what had gone before.” Neil Earle, *Public Opinion for Peace: Tactics of Peace Activists at the Washington Conference on Naval Armament*, 40 JOURNAL OF CHURCH AND STATE 149, 156 (1998).

62. As an international organization, WILPF actively sought to expand its geographical reach and to proactively share knowledge through its sections. Thus, for example, it arranged for Gertrud Woker’s article on chemical weapons to be published in multiple languages for global distribution. 4TH CONGRESS REPORT, *supra* note 51, at 111–12. It should be noted that even within organizations such as WILPF there remained unresolved fault lines in respect of race, class, and nationality. While feminists were able to reach consensus on the need to eliminate racism, colonialism, and imperialism, this did not necessarily mean that racism and classism did not exist within their own membership.

63. For example, in 1930 a deputation of American, British, French, and Japanese women representing different women’s organizations united to collectively lobby State representatives who had gathered for the London Naval Conference and to press for the reduction in war fleets as the “foundations of general disarmament.” DEPUTATION OF AMERICAN, BRITISH, FRENCH AND JAPANESE WOMEN RECEIVED BY THE CHAIRMAN OF THE LONDON NAVAL CONFERENCE 10 (1930), <https://lse-atom.arkivum.net/uklse-dl1-if01-005-001-0017-0001-pdf-59bfc415-789b-4f8a-8ab6-2d9341d7f147> [hereinafter DEPUTATION OF AMERICAN, BRITISH, FRENCH AND JAPANESE WOMEN].

64. See Resolution V on Chemical Warfare, 4TH CONGRESS REPORT, *supra* note 51, at 138.

Scientific Warfare to better understand the implications of chemical and biological warfare.⁶⁵ In addition to launching public education campaigns, efforts were taken to foster expert networks by appealing directly to leading scientists of the day to join in opposing the use and development of chemical weapons.⁶⁶ The adoption of the 1925 Geneva Protocol was seen by WILPF as a partial victory, although activists remained less than sanguine.⁶⁷ The decision by the US Senate not to ratify the Protocol in the wake of a coordinated campaign of political lobbying by industry and the military, both of which were heavily invested in the research, development, and manufacture of chemical weapons, brought home to activists the enormity and complexity of the resistance they would encounter in the field of weapons more

65. Both Gertrud Woker (professor of biochemistry and toxicology at Berne University) and Naima Sahlbom (a chemical physicist) attended the Conference of the American Chemical Society in April 1924 during which time they visited the Edgewood Arsenal where they witnessed various military exercises involving weapons systems using “different uses of poison gases combined with white phosphorous.” Following their visit, Woker would publish a short paper highlighting the indiscriminate nature of poison gas weapons. Gertrud Woker, *The Next War, a War of Poison Gas*, <https://documents.alexanderstreet.com/d/100690572> (last visited May 21, 2021).

66. The Committee on Chemical Warfare also took the decision “to appeal to scientists of the world, urging them to consider their responsibility in the application of their inventions and discoveries for the purposes of war.” WILPF Newsletter from Geneva (Nov. 1924) (on file in the Women’s International League for Peace and Freedom Collection, IV-7-13, Archives, University of Colorado at Boulder Libraries, WILPF Papers, 1915-1978, Microfilm, Reel 103, frames 1801–1803). National sections in Germany, France, and Czechoslovakia took proactive steps to appeal to scientists in higher education establishments. WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, REPORT OF THE FIFTH CONGRESS OF THE WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM (1926) [hereinafter 5TH CONGRESS REPORT]. The Committee remained active throughout the second half of the 1920s and in 1929 organized an expert conference on “Modern Methods of Warfare” keeping the issue of gas warfare on the international agenda. WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, REPORT OF THE SIXTH CONGRESS OF THE WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM 28–31 (1929).

67. Although WILPF remained committed to universal and total disarmament, it took the strategic view that supporting partial disarmament measures was a politically prudent way forward and, as such, encouraged national sections to press their respective governments to ratify the Protocol. 5TH CONGRESS REPORT, *supra* note 66, at 153–54. Activists were fully aware of the weakness of the Protocol, which did not contain a legal requirement to reduce stockpiles nor a requirement not to produce the weapon. In effect, it was no more than a prohibition on the first use of chemical weapons. For a useful critical analysis of the Protocol, see Timothy McCormack, *International Law and the Use of Chemical Weapons in the Gulf War*, 21 CALIFORNIA WESTERN INTERNATIONAL LAW JOURNAL 5 (1990).

broadly.⁶⁸ In particular, the political strategies adopted by the anti-Protocol lobby revealed—for the first but not the last time—the ways in which gender norms would be invoked to block disarmament.⁶⁹ For feminist activism, this setback made the regulation of the arms industry an even more pressing and necessary element of, and step toward, universal disarmament.⁷⁰

The need for expert knowledge was not confined to science and technology but extended to international law, a field from which women continued to be excluded.⁷¹ The potential for international law to secure change at the national level—whether it was to advance gender equality or disarmament—was not lost on feminist activists who, notwithstanding the obstacles presented, strove to acquire the necessary skills and knowledge to speak with authority. Their radically different conception of international law as a counter-hegemonic means through which to shape domestic law was not one shared by the political elites who continued to regard it exclusively as a tool

68. Naima Sahlbohm, *Report of the Commission on Chemical Warfare*, 5TH CONGRESS REPORT, *supra* note 66, at 152–55.

69. Slotten observes how the anti-Protocol lobby regularly “characterized their opponents in patronizing terms as emotional and sentimental” and of how “attacks based on gender stereotypes were a strong feature of these patronizing statements.” He continues “by portraying the 1920s anti-gas movement as dominated by ‘hysterical’ and ‘unscientific’ women, the male chemists and chemical warfare experts hoped to defuse the assault against their cause.” Hugh R. Slotten, *Humane Chemistry or Scientific Barbarism? American Responses to World War I Poison Gas, 1915-1930*, 77 THE JOURNAL OF AMERICAN HISTORY 476, 492 (1990). On the interests that were at stake and the strategies adopted by the anti-Protocol lobby, see also Daniel P. Jones, *Chemists and the Geneva Protocol*, 71 ISIS 426 (1980).

70. In 1926 WILPF adopted a resolution reaffirming its support for universal disarmament and further called for “the international control and supervision of the manufacture and traffic in arms, poison gas, and munitions.” 5TH CONGRESS REPORT, *supra* note 66, at 122.

71. In Britain, it was only in 1919, when the Sex Disqualification (Removal) Act came into force, that women were allowed to pass their law exams and practice as lawyers. Although US women were able to practice earlier in a handful of states, until at least the 1920s women were positively excluded from the “inner circle” of international law. For example, the first executive meeting of the American Society of International Law in 1906 expressly limited membership to “any man of good moral character, interested in the objects of the Society.” As Kirgis observes, “women did not become formally eligible for membership until 1920.” Frederic L. Kirgis, Jr., *The Formative Years of the American Society of International Law*, 90 AMERICAN JOURNAL OF INTERNATIONAL LAW 559, 565 (1996). This change corresponded with women being recognized as having the right to vote in August 1920 with the ratification of the 19th Amendment.

for regulating inter-State relations.⁷² For States, preserving a clear distinction between the international and domestic legal regimes was needed to retain the authority to decide what matters fell within the purview of one regime or the other, as a core element of sovereign power. Nonetheless, just as disarmament became a matter of international regulation in the first decade of twentieth century, the idea of gender equality as a legitimate matter for international regulation would begin to take hold in the second decade. Feminist activists also took a profoundly different view of IHL. Since as early as 1899, activists had questioned the value of IHL and rejected the claim that the law would protect the civilian population from the effects of modern warfare.⁷³ Thus, in contrast to other emerging international legal regimes, few feminist activists took interest in acquiring expert legal knowledge and instead viewed the evolution of IHL with growing disquiet.⁷⁴

The failure to reach agreement on general disarmament during the inter-war years was not due to a lack of effort on the part of those who worked

72. Extant views on the scope and content of international law are best captured in the words of the Permanent Court of International Justice:

International law governs relations between independent States. The rules of law binding upon States therefore emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between these co-existing independent communities with a view to the achievement of common aims.

SS Lotus (Fr. v. Turk.), Judgment, 1927 P.C.I.J. (ser. A) No. 10 at 18 (Sept. 7).

73. “We have no belief in the possibility of humanising warfare nor of defending civil populations from poison gases or other modern methods of waging war.” Statement by the Disarmament Committee of the Women’s International Organisations in relation to the Conference for the Reduction and Limitation of Armaments 9 (Feb. 23, 1932) [hereinafter Statement by the Disarmament Committee]. This position contrasts with that taken by the male-dominated peace movements which were not entirely antithetical to the progressive development of IHL.

74. Feminist activists had since as early as the First Hague Peace Conference in 1899 taken this view. Many within the peace movements were shocked when the first Nobel Peace Prize was co-awarded to Frederic Passy and Henri Dunant in 1905 as the regulation of warfare and weapons was seen as legitimizing violence and an anathema to peace. As Passy reportedly stated, “you do not humanize war. You get rid of war by becoming more human.” James D. Fry & Saroji Nair, *Moral Disarmament: Reviving a Legacy of the Great War*, 40 MICHIGAN JOURNAL OF INTERNATIONAL LAW 1, 1 (2018). “The Disarmament Committee of the League of Nations, although clad in modern attire, reminds us most vividly of a corporation called The Hague Conference, the task of which seemed to be to organize, or as they thought, to ‘humanize’ war.” 4TH CONGRESS REPORT, *supra* note 51, at 56. See also the assessment by Corbett Ashby, *infra* note 77.

within the League.⁷⁵ In 1926 States would make one last attempt to advance disarmament and arms control—by convening the Conference for the Reduction and Limitation of Armaments—before the demise of the League with the outbreak of World War II.⁷⁶ The 1932 World Disarmament Conference represented a turning point for feminist activism on two fronts. For the first time in history, several States appointed women as official delegates, disrupting entrenched prejudices that had barred women’s participation in an area regarded as the exclusive domain of men.⁷⁷ Second, proactive steps were taken by a handful of States to include women’s voices into the formal process by extending special status to the Women’s Disarmament Committee (WDC),⁷⁸ a body which had been created in preparation for the Conference.⁷⁹ This move was supported by key figures, including British Foreign Secretary Arthur Henderson, who presided over the Conference. The WDC, which comprised fourteen women’s international organizations and five national organizations representing over forty million women from fifty-six States across the world, had been founded in September 1931 by feminist activists with the specific objective of coordinating women’s input into the

75. For a useful overview and analysis, see Andrew Webster, *Making Disarmament Work: The Implementation of the International Disarmament Provisions in the League of Nations Covenant, 1919-1925*, 16 *DIPLOMACY AND STATECRAFT* 551 (2005).

76. During this period there was an increase in military expenditure and capacity by States. For example, see Samuel Hoare, British Secretary of State for Air, Memorandum on Disarmament (Oct. 6, 1927) (on file with The National Archives, Kew, CAB 24/188/33).

77. Uruguay appointed Pauline Luisi; Britain, Margery Corbett Ashby; the United States, Mary Woolley; Canada, Winifred Kydd; and Poland, Anna Poradowska-Szelagowska.

78. The WDC (or Peace and Disarmament Committee of the Women’s International Organisations) included the International Council of Women, the International Alliance of Women, the Women’s International League for Peace and Freedom, the World’s Young Women’s Christian Association, and the League of Jewish Women, among others. Associated national consultative members included the National Committee on the Cause and Cure of War (U.S.) and the Women’s Peace Crusade (Great Britain).

79. A resolution tabled by the Spanish delegation to the League General Assembly to “consider the possibility of studying the means of associating feminine action and feminine feeling the work of the League of Nations by effective and direct collaboration” opened the way for women’s involvement in the Conference. Secretary-General of the League of Nations, Memorandum, Cooperation of Women in the Organisation of Peace, *in* League of Nations (Jan. 22, 1932), https://biblio-archives.unog.ch/Dateien/CouncilDocs/C-77-1932_EN.pdf. See also the report by the Spanish Representative, to “increase collaboration of women with the work of the League.” Report by the Spanish Representative to the League of Nations, Collaboration of Women in the Work of the League of Nations (1931), https://biblio-archives.unog.ch/Dateien/CouncilDocs/C-632-1931_EN.pdf.

Conference process.⁸⁰ In addition, the WDC functioned as a knowledge hub and clearing-house for information;⁸¹ an education and dissemination body; and a campaign body dedicated to building global public support for the Conference, including through petitions (just as they had done in 1899 and 1930⁸²) that were presented to the delegates at the opening of the conference.⁸³

Although the Disarmament Conference was officially suspended in early 1936, by 1935 it was clear to many, including the WDC, that there would be no meaningful agreement on disarmament.⁸⁴ Any optimism at the opening

80. See Disarmament Committee of the Women's International Organisation, Appeal (1934) (on file in the Women's Library, London School of Economics and Political Science, Corbett Ashby archives 7MCA/C/08-09, Box FL484, 1934-1942) [hereinafter Appeal]. The organization ceased operation about 1940. For a history of the WDC, see DENISE IRETON, *FIGHTING FOR PEACE IN AN INTERNATIONAL CITY: THE DISARMAMENT COMMITTEE OF THE WOMEN'S INTERNATIONAL ORGANIZATIONS IN GENEVA 1931-1939* (2012).

81. In its fundraising appeal notice, the Committee described itself as the "centre of an international network of communication." Appeal, *supra* note 80.

82. In 1930 the Women's Peace Crusade composed of women's organizations from Britain, the United States, France, and Japan, and representing over two million women met with the leaders of the delegations at the London Naval Conference and presented them with a petition with nearly 200,000 signatures.

83. Petitions with over eight million signatures were presented in a plenary session of the conference on February 6, 1932. Arthur Henderson, Preliminary Report on the Work of the Conference for the Reduction and Limitation of Armaments 14 (July 1936), <http://digital.library.northwestern.edu/league/le00089a.pdf>. Some contemporaneous accounts mention twelve million signatures (with six million secured by WILPF alone). Records indicate that four petitions were circulating during 1930 and 1931 and, although some were more forcefully worded, each called on participating governments to achieve meaningful disarmament. See HARRIET HYMAN ALONSO, *PEACE AS A WOMEN'S ISSUE* 120–21 (1993). The originals were destroyed—probably during WWII—although photographs and film footage remain, as do unsigned copies of the petition (the petition is on file in the archives of the People's History Museum, Manchester, UK, LP/ID/DIS/2/3).

84. In March 1935, Corbett Ashby resigned from the British delegation in protest following the announcement by the British government of its intention to expand its air force capabilities. Letter from the Prime Minister's Office to Dame Corbett Ashby (Mar. 12, 1935) (on file in The Women's Library, The London School of Economics and Political Science, Ref. No. 7MCA/C/05-06, Box FL483). For a damning critique, see Margery Corbett Ashby, *The Failure in Leadership at the Disarmament Conference* 4 (1935) (on file in The Women's Library, The London School of Economics and Political Science, Ref. No. 7MCA/C/05-06, Box FL483). In particular, Corbett Ashby was critical of "the attempt to humanise war" by the Conference, which passed a "pious resolution" on July 23, 1932. She continues:

had been dampened by increasing incidents of inter-State conflict, rising levels of militarism and nationalism, the emergence of fascism (and with it, the persecution of minorities), and the re-escalation of the arms race.⁸⁵ In 1935, the WDC changed its name to the Peace and Disarmament Committee to reflect a widening of its stated objectives.⁸⁶ This intellectual shift represented both a frustration with the lack of progress by States and a rejection of the

Aircraft, and in particular air bombers, were not to be abolished but air attack against civilians was to be “absolutely prohibited” and the number and characteristics of aircraft to be regulated; it was also decided to limit guns and tanks, but no size or weight was agreed upon; also to prohibit chemical bacteriological and incendiary warfare under certain conditions (unspecified!). In the following months we did nothing but prevent and hamper the discussion of the regulation, publicity and international control that would be necessary to make even the conditions of this vague resolution workable.

Id. As early as July 1932, Edouard Herriot, France’s Prime Minister, had observed, “‘to disarm’ is an irregular verb, with no first person, and only conjugated in the future tense.” 1 LEAGUE OF NATIONS RECORDS OF THE CONFERENCE FOR THE REDUCTION AND LIMITATION OF ARMAMENTS 195, SERIES B: MINUTES OF THE GENERAL COMMISSION, 9 FEB. – 23 JULY 1932, at 195 (1932). See also the memorandum by the British Secretary of State for Air which reads:

Whilst it is easy to make an argument for the futility of the Conference, I take the view that the wise course for us to adopt is the course of friendly and cautious support rather than of open hostility or negative suspicion. Quite rightly, we have repeatedly said “No” to the several impracticable proposals for security that have been made by the League, and this or that Continental Government. Quite rightly, also, we were not prepared to endanger our naval security at the Geneva Conference.

Hoare, *supra* note 76.

85. In 1931 Japan invaded Manchuria; fascism was on the rise in Spain (leading to civil unrest from 1932 onwards), in Germany (with programs of mass persecution from 1933 onwards), and in Italy. In 1935 Italy, under Mussolini, invaded Ethiopia. With their initial euphoria and optimism dashed, many women peace activists found themselves struggling to remain committed to disarmament, especially against a rising tide of fascism. See, for example, Clara Ragaz, *Problems Resulting for the Work and Methods of the WILPF*, MINUTES OF PROCEEDINGS OF THE WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM: EIGHTH INTERNATIONAL CONGRESS (1934). The rise of fascism divided women activists. See Julie V. Gottlieb, *Broken Friendships and Vanished Loyalties: Gender, Collective (in)Security and Anti-Fascism in Britain in the 1930s*, 13 POLITICS, RELIGION & IDEOLOGY 197 (2012).

86. In addition to pressing for disarmament, the Peace and Disarmament Committee aimed to “spread knowledge and understanding of the great issues underlying the organisation of peace” and to “enlist the support of women in all parts of the world in the service of peace.” Peace and Disarmament Committee of the Women’s International Organizations, Pamphlet (1935) (on file in the Sophia Smith Collection, Women’s History Archives, Smith College Library, Folder 3, Box 5). See Peace and Disarmament Committee of the Women’s International Organisations, Minutes (Sept. 11, 1935).

siloed and decontextualized approach to disarmament adopted by governments. The recoupling of peace and disarmament opened the way for additional strategies to be developed and feminist peace activists were better able to register the linkages between conflict and structural oppressions,⁸⁷ develop critical analyses that addressed the causes of conflict, and to advance holistic strategies in pursuit of peace, integral to which was disarmament.⁸⁸ For feminist peace activists, universal and total disarmament could not be divorced from the dismantling of the private arms trade, nor could it be divorced from militarism, colonialism, and patriarchy, each of which operated to normalize inequalities between and within States.

Feminist activists of the late nineteenth and early twentieth century had not demanded political rights and the right to participate in political life merely “to continue the style of politics which men had introduced into the world.”⁸⁹ Rather, their ambition was “to change politics entirely.”⁹⁰ The core of that vision was universal disarmament, a goal that increasingly united feminist peace activists across the world throughout the inter-war period. How

87. Feminist activism, exemplified by the work of WILPF, had sought to understand the interlinkages and causal connections between, for example, imperialism, militarism, capitalism, accountability, inequality, the arms industry and arms trade, minority rights, and sovereign equality. Underpinning this work was the awareness that disarmament could only be secured through a critical analysis of the complex systems and structures that operated as obstacles as demonstrated through the discussions held among WILPF’s membership in 1924 and 1937 around “A New International Order” or “Colonialism and Economic Imperialism” in 1926.

88. An example of this was the statement of aims as voted by WILPF during its Eighth Congress in 1934 in Zurich, which stated:

the primary object of the WILPF remain: total and universal disarmament, the abolition of violent means of coercion for the settlement of all conflicts, the substitution in every case of some form of peaceful settlement, and the development of a world organization for the political, social and economic cooperation of peoples. Conscious that these aims cannot be attained and that a real and lasting peace and true freedom cannot exist under the present system of exploitation, privilege and profit they consider that their duty is to facilitate and hasten by non-violent methods the social transformation which would permit the inauguration of a new system under which would be realised social, economic and political equality for all without distinction of sex, race or opinion.

Clara Ragaz, Address, WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM: EIGHTH INTERNATIONAL CONGRESS REPORT (1934) (on file in the Swarthmore College Peace Collection, Women’s International League for Peace and Freedom Collection DG043).

89. Lida Gustava Heymann, *Survey of the Nine Years’ History of the WILPF*, 4TH CONGRESS REPORT, *supra* note 51, at 42.

90. *Id.*

women sought to shape the disarmament debate shifted over this period. During the early years they often subscribed to essentialist notions as the basis upon which to claim participatory rights in the field of disarmament and weapons. But over time, and with their partial entry into the public domain, greater emphasis was placed on their expert knowledge that allowed them to speak with authority on an equal footing with their male counterparts. Yet, whether it was within the peace movements themselves or in the corridors of power at the League, feminists were fully aware that the downside of being heard was the need to speak in the prevailing masculine and militarized language which, rather than advancing disarmament, blocked progress.⁹¹

III. OBSTACLES

“It is very difficult to put together the words ‘Peace’ and ‘Security’ and make them agree, and if you succeed in making them agree you will have achieved a great accomplishment.”

Madame Rudler, Addressing the
London Naval Conference⁹²

Feminist transnational peace activism was suspended for much of the war years.⁹³ However, in the immediate aftermath of the war, women’s groups made certain that the institutional gains they had secured in the League were not lost with the creation of the United Nations.⁹⁴ Several women’s international organizations, including WILPF, the International Council of

91. The absence of a common language is a theme addressed by Woolf in her essay. WOOLF, *supra* note 10, at 6.

92. Madame Rudler, Address at the London Naval Conference, DEPUTATION OF AMERICAN, BRITISH, FRENCH AND JAPANESE WOMEN, *supra* note 63, at 10.

93. During the war years women peace activists were subject to multiple and disproportionate forms of persecution by both Axis and Allied powers, albeit to differing degrees. Harriet Hyman Alonso, *The Longest Living Women’s Peace Organization*, in *WORLD HISTORY: THE WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, 1915 TO THE PRESENT* 13 (2012).

94. There was a real concern among feminist activists that women would, once more, be excluded from international institutions. *See, e.g.*, WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, *RETROSPECT AND PROSPECT, XTH INTERNATIONAL CONGRESS OF THE WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM AT LUXEMBOURG, AUGUST 4TH-9TH, 1946*, at 42–43 (1946).

Women,⁹⁵ and the Women's International Democratic Federation,⁹⁶ were among the first non-governmental organizations that were able to acquire consultative status to the Economic and Social Council, thereby giving them access to certain UN bodies, including the General Assembly and Human Rights Council. These institutional footholds, together with the subsequent creation of special women's institutions such as the Commission on the Status of Women, provided valuable international platforms to further women's particular concerns. Paradoxically, however, they also served to exclude women from other areas, not least disarmament.⁹⁷ Thus, notwithstanding institutional inclusion, in that non-governmental organizations had been accorded "no defined role"⁹⁸ within the UN's disarmament architecture, WILPF found itself unable to advance the case for universal disarmament, made even more difficult by US-Soviet rivalry for military, ideological, and political dominance and the advent of nuclear weapons. For much of the second half of the twentieth century, anti-war feminist activism was shaped by Cold War geopolitics and the schism which unfolded between nuclear-weapon States (including those seeking such weapons) and States that sought a world free from such weapons in the political form of the Non-Aligned Movement. It was against this backdrop that feminists sought to develop new and creative strategies to reposition discussions on disarmament (both within and outside the UN institutions and multilateral disarmament mechanisms), and to challenge entrenched approaches and dominant views.⁹⁹

For anti-war feminists, the view—or rather claim—that has proved especially difficult to dislodge in the post-war period is ("the *reductio ad absurdum*

95. For a useful history on the International Council of Women, see LEILA J RUPP, *THE INTERNATIONAL COUNCIL OF WOMEN: 1888 TO THE PRESENT* (2012).

96. The Women's International Democratic Federation was established in late 1945 in Paris by a group of left-leaning feminists. It was the most influential transnational women's organization among eastern bloc States and the global south during the Cold War period.

97. Hilary Charlesworth, *Transforming the United Men's Club: Feminist Futures for the United Nations*, 4 *TRANSNATIONAL LAW & CONTEMPORARY PROBLEMS* 445, 421 (1994).

98. Adelaide Nichols Baker, *Work with the United Nations*, 14TH INTERNATIONAL CONGRESS OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM STOCKHOLM, SWEDEN, 27TH TO 31ST JULY 1959, at 57 (1959) [hereinafter 14TH CONGRESS REPORT].

99. WILPF's activists recognized early on that with the advent of nuclear power "revolutionary" thinking on and around disarmament was required. Gladys Walser, *Disarmament*, 13TH INTERNATIONAL CONGRESS OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, BIRMINGHAM, ENGLAND 23RD-28TH JULY 1956, at 96 (1956) [hereinafter 13TH CONGRESS REPORT]. See also Kathleen Lonsdale, *World Events and the Nuclear Revolution*, *id.* at 81–86.

theory”¹⁰⁰) that weapons are an effective means by which to guarantee peace. Exemplified by Winston Churchill’s warning to a Joint Session of the US Congress in January 1952 to “be careful above all things not to let go of the atomic weapon until you are sure, and more than sure, that other means of preserving peace are in your hands,”¹⁰¹ this reasoning has been allowed to take root and thrive by the very post-war normative architecture adopted, namely, the UN Charter. In contrast to the Covenant of the League, which was founded on the belief that the arms race had created insecurity, making war inevitable, the Charter rests on the competing rationale that it was the insecurity between States which led to the inter-war arms race and ultimately war.¹⁰² Thus, rather than recognizing disarmament as a substantive goal and the *precondition to peace*, the Charter centers the prohibition on the use of force and respect for the territorial integrity and sovereignty of all States as its two interlinking core values to “maintain international peace and security.”¹⁰³ This conceptual reorientation has all too often enabled States to insist on the need for attaining national security as the *precondition to disarmament*. The Charter’s structure builds on this logic and stands as a constant reminder, reaffirmed by the International Court of Justice, that “in international law there are no rules, other than such rules as may be accepted by the State concerned,

100. See ADDAMS, *NEWER IDEALS OF PEACE*, *supra* note 26, at 5, who comments, “certainly no theory could be devised which is more cumbersome, more roundabout, more extravagant, than the *reductio ad absurdum* of the peace-secured-by-the-preparation-for-war theory.”

101. Winston Churchill, British Prime Minister, Address to the U.S. Congress (Jan. 17, 1952).

102. This rationale was repetitively invoked by President Ronald Reagan with the words that “nations do not mistrust each other because they are armed; they are armed because they mistrust each other.” See, e.g., Ronald Reagan, United States President, Address to the UN General Assembly (Sept. 22, 1986), <https://2009-2017.state.gov/p/io/potus/unga/207355.htm>. The rationale continued to shape US foreign policy throughout the Cold War period and beyond. More recently, in its submission to the Preparatory Committee for the 2020 Review Conference for the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, the United States stated:

If we continue to focus on numerical reductions and immediate abolition of nuclear weapons, without addressing the real underlying security concerns that led to their production in the first place, and to their retention, we will advance neither the cause of disarmament nor the cause of enhanced collective international security.

United States Delegation, *Creating the Conditions for Nuclear Disarmament: Working Paper Submitted by the United States of America*, U.N. Doc. NPT/CONF.2020/PC.II/WP.30 (Apr. 18, 2018).

103. See U.N. Charter art. 2, ¶¶ 1, 4, 7.

by treaty or otherwise, whereby the level of armaments of a sovereign State can be limited, and this principle is valid for all States without exception.”¹⁰⁴ Articles 42, 46, 47, and 51 separately and collectively recognize that, in exceptional circumstances, the resort to armed force may be necessary to secure peace and security and thus reinforce the *need* for weapons, embracing an ends/means paradox that cannot be resolved.¹⁰⁵ Moreover, as critics have repeatedly underscored, notwithstanding the assertion that it is organized “on the principle of the sovereign equality of all its Members,” the post-war institutional edifice is founded on a hierarchy, distinguishing between the permanent members of the Security Council and other member States, distributing political power according to military strength. Thus, for anti-war feminists, a culture of militarism is embedded within the very fabric of the existing institutional global order cemented through international law. Finally, the decision by the drafters to conjoin peace and security has served not only to elide the potential discord between the two purposes—both of which remain ambiguous, contested, and unquantifiable—but to recast, as Churchill did, weapons as necessary to peace.

Disarmament was not entirely omitted from the Charter. Both the General Assembly and Security Council are charged with responsibilities for furthering disarmament. Article 11 grants the General Assembly the power to “consider the general principles of cooperation in the maintenance of international peace and security, including principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.” The Security Council is specifically tasked with “formulating . . . plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments” in order “to promote the establish-

104. *Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.)*, Judgment, 1986 I.C.J. 14, ¶ 269 (June 27).

105. Even setting aside the sentiment of the Preamble (“to save succeeding generations from the scourge of war;” “to practice tolerance and live together in peace with one another as good neighbours”), Article 1, which identifies the purposes of the United Nations, arguably envisages a global order committed to non-violence. Yet, at the same time, Articles 42, 46, 47, and 51 all assume the resort to some form of militarized force. Nor, for that matter can the Charter divest itself of violence to the extent that all law is constituted by and enforced through violence. The word “enforceability” as Derrida suggests, “reminds us that there is no such thing as law that doesn’t imply in itself, a priori, . . . the possibility of being ‘enforced’, applied by force.” Jacques Derrida, *Force of Law: The “Mystical Foundation of Authority,”* 11 CARDOZO LAW REVIEW 919, 925 (1990).

ment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources.”¹⁰⁶ However, the history of disarmament since 1945 reveals the singular failure on the part of the Security Council to fulfill its mandate, in contrast to the General Assembly which has, in the words of John Burroughs, “vigorously exercised its power under Article 11.”¹⁰⁷ In particular, the General Assembly's repeated reaffirmation of the interlinkage between peace and disarmament, redolent of the pre-war rationale, culminated with a significant breakthrough in 1959. The unanimous adoption of Resolution 1378 not only instated “general and complete disarmament under effective international control” as a substantive goal of the international community—and possibly the most important one—but, significantly, recognized disarmament as a *means* by which both security and peace could be achieved, disrupting the underlying Charter rationale.¹⁰⁸

106. U.N. Charter art. 26. The paradox is that permanent members of the Security Council comprise the “exclusive club” of nuclear-weapon States and have, since 1945, been the top global exporters of arms (with Germany).

107. John Burroughs, *Legal Aspects of General and Complete Disarmament*, in *RETHINKING GENERAL AND COMPLETE DISARMAMENT IN THE TWENTY-FIRST CENTURY* 15, U.N. Sales No. E.16.IX.8 (2016). For example, the very first resolution adopted by the General Assembly was to establish the Atomic Energy Commission with the mandate to make proposals “for the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction.” G.A. Res. 1, ¶ 5(b) (Dec. 13, 1946). Over the years the General Assembly, through the work of the First Committee, has taken numerous measures—creating mechanisms and initiating dialogue—to stimulate progress. For example, in 1952 the UN Disarmament Commission was established with the mandate to prepare a draft treaty for the regulation, limitation, and reduction of armed forces and armaments, including elimination of all weapons of mass destruction. G.A. Res. 502(VI) (Jan. 11, 1952). The Assembly has also established the UN Institute for Disarmament Research (1980) and the UN Office for Disarmament Affairs (1982), facilitated three special sessions devoted to disarmament, and adopted numerous resolutions on disarmament.

108. G.A. Res. 1378, pmb., para. 5 (Nov. 20, 1959). A compelling argument can be made that Resolution 1378 is binding on States by virtue of its now customary international law status. It should also be borne in mind that resolutions of the General Assembly may even modify the Charter. This has been recognized by the International Court of Justice in its advisory opinion on the status of Namibia and confirmed in principle in the *Nicaragua* judgment. *Legal Consequences for States of the Continued Presence of South Africa in Namibia*, Advisory Opinion, 1971 I.C.J. 104 (June 21); *Military and Paramilitary Activities*, 1986 I.C.J. 14, ¶¶ 188, 195. The adoption of the resolution galvanized efforts within the United Nations to undertake studies on the economic and social impact of disarmament to preempt domestic objections and resistance. For additional historical context, see MICHAEL SPIES, *UNITED NATIONS EFFORTS TO REDUCE MILITARY EXPENDITURES: A HISTORICAL OVERVIEW* ch. 2, U.N. Sales No. E.20.IX.1 (2019).

The resolution was widely welcomed by peace activists, including WILPF which, earlier in the year, had called on the General Assembly to “consider disarmament as its most pressing task,”¹⁰⁹ made especially urgent by the ever-shifting political positions among nuclear-weapon States due to changing assessments around military capabilities.¹¹⁰ All optimism was soon dashed with the collapse of the Ten-Nation Disarmament Committee, the political mechanism tasked with progressing disarmament pursuant to Resolution 1378.¹¹¹ Although the prospect for advancing disarmament was rekindled in 1961 with the adoption by the United States and the Soviet Union of the McCloy/Zorin principles¹¹² calling for cooperation among States in

109. WILPF Disarmament Resolution, 14TH CONGRESS REPORT, *supra* note 98, at 93. In its preamble Resolution 1378 recognized that “the question of general and complete disarmament is the most important one facing the world today.”

110. See, for example, Gladys Walser’s observations that,

for those who have followed the disarmament discussions in the United Nations for the past ten years, it is revealing and at the same time frustrating to observe the reversals of positions of the two sides. For example, in 1946 and thereafter, Mr Gromyko contended unsuccessfully that atomic and non-atomic disarmament were inseparable. The Western powers after dismissing this claim, accepted it in 1951. Now in 1956, the same Mr Gromyko insists there are no cogent reasons for linking the two.

13TH CONGRESS REPORT, *supra* note 99, at 102–3.

111. Although the General Assembly sought to retain ultimate control over general disarmament, Resolution 1378 recognized the establishment of a parallel political process in the form of the Ten-Nation Disarmament Committee, a political initiative supported by the United States, Soviet Union, France, and the United Kingdom, *outside the UN disarmament machinery*. It nevertheless required the Committee’s reports to be presented to the Disarmament Commission and to both the General Assembly and Security Council, emphasizing that the “ultimate responsibility for general disarmament measures” belonged to the UN. UN Disarmament Commission Resolution DC/146 (Sept. 10, 1959). The activities of the Ten-Nation Disarmament Committee were terminated in June 1960.

112. See Perm Rep. of the Union of Soviet Socialist Republics to the U.N. and Perm Rep. of the United States of America to the U.N., Letter dated Sept. 20, 1961 from the Permanent Reps. of the Union of Soviet Socialist Republics and the United States of America to the United Nations addressed to the President of the General Assembly, U.N. Doc. A/4879 (Sept. 20, 1961) (transmitting the “Joint Statement of Agreed Principles of Disarmament Negotiations”). The Principles were widely welcomed at the time and endorsed by the General Assembly, which created the Eighteen-Nation Disarmament Committee (later evolving into the Conference on Disarmament) to consider options for realizing general and complete disarmament. While some scholars have subsequently dismissed the Principles as a Cold War anachronism and a cynical rhetorical device serving to elide political realities, others have viewed the initiative as the outcome of a moment of utopian ambition. See, e.g., N.D. Jayaprakash, *Conning Humanity in the Name of Disarmament*, ECONOMIC & POLITICAL WEEKLY, July 27, 2017, at 35.

reaching early agreement on general and complete disarmament, feminist peace activists remained only cautiously optimistic. The subsequent release by the United States of a white paper entitled “Freedom from War: The United States Program for General and Complete Disarmament *in a Peaceful World*”¹¹³ was interpreted by the Soviet Union as evidence of US insincerity, but it also served to reaffirm feminist concerns that Resolution 1378 would be read to privilege national security over disarmament.

Throughout the Cold War period the field of inter-State disarmament was dictated by a narrow class of political elites within the United States and the Soviet Union to the exclusion of most States and, for the most part, women. Confronted by the fact that equality in law had done little to disrupt the gendered space of disarmament (nor for that matter had it delivered the equal distribution of political power), feminist peace activists sought out allies among some new and emerging States, including those within the Non-Aligned Movement which, at its founding conference in Bandung in 1955, had declared that “universal disarmament is an absolute necessity for the preservation of peace.”¹¹⁴ In addition to urging for “disarmament and the prohibition of the production, experimentation and use of nuclear and thermo-nuclear weapons,” the Non-Aligned Movement called on the UN “to continue its efforts” and “appealed to all concerned speedily to bring about the regulation, limitation, control and reduction of all armed forces and armaments, including the prohibition of the production, experimentation and use of all weapons of mass destruction, and to establish effective international control to this end.”¹¹⁵

113. U.S. DEPARTMENT OF STATE, PUB. NO. 7277, FREEDOM FROM WAR: THE UNITED STATES PROGRAM FOR GENERAL AND COMPLETE DISARMAMENT IN A PEACEFUL WORLD (1961) (emphasis added).

114. FINAL COMMUNIQUÉ OF THE ASIAN-AFRICAN CONFERENCE OF BANDUNG 6 (1955).

115. At its Second Conference of Heads of State in 1964, the Non-Aligned Movement called for the convening of a world disarmament conference. In June 1965 the Disarmament Commission adopted a resolution calling for such a conference, which was further endorsed by the General Assembly in Resolution 2030 of November 1965. G.A. Res. 2030 (XX) (Nov. 29, 1965). WILPF likewise pressed for such a conference to “*assess* all initiatives thus far offered particularly those dealing with the prohibition of weapons of mass destruction, *establish* clear guide line, formulate concrete proposals, and *approve* . . . an agreement leading to general and complete disarmament.” WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, 16TH INTERNATIONAL CONGRESS OF THE WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, THE HAGUE, HOLLAND 26TH TO THE 31ST JULY 1966, at 127 (1966) [hereinafter 16TH CONGRESS REPORT] (emphasis added).

Although the vision outlined in the Final Communiqué more closely aligned with WILPF's goals,¹¹⁶ it did not escape anti-war feminists that for States the goal of general and complete disarmament was framed by Article 26 of the Charter.¹¹⁷ The provision recognizes the right of States to maintain defensive capabilities, albeit at the lowest possible level, paralleling the stance taken by the League pursuant to Article 8 of the Covenant, which had called for the reduction of national armaments to the "lowest point consistent with national safety." Nor were feminists blind to the fact that the institutional gains made by the global South, or indeed by members of the Non-Aligned Movement, into the world of disarmament did not result in the inclusion of women, let alone feminist goals. The Eighteen-Nation Disarmament Committee, which was established in 1962 and tasked to consider how to make general and complete disarmament a reality, may have created space around the table for those whose voices had until then been excluded, but the delegations—old and new—were comprised almost entirely of men.¹¹⁸ For much of its existence, Sweden's Alva Myrdal remained the sole woman delegate with feminist leanings to the Eighteen-Nation Disarmament Committee negotiations.¹¹⁹

Feminist activism during this period was focused principally on protesting against nuclear weapons and testing.¹²⁰ At the international level, activists

116. See the report by Gertrude Baer in WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, 15TH INTERNATIONAL CONGRESS OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM: ASILOMAR, CALIFORNIA, U.S.A., 8TH TO 13TH JULY 1962, at 26–27 (1962) [hereinafter 15TH CONGRESS REPORT].

117. Article 26 of the UN Charter refers to "the least diversion for armaments of the world's human and economic resources."

118. In addition to the original members, which included Canada, France, the United Kingdom, Italy, the United States, Bulgaria, Czechoslovakia, Poland, Romania, and the Soviet Union, the new members included Brazil, Burma, Ethiopia, India, Mexico, Nigeria, Sweden, and the United Arab Republic.

119. For an insight into Myrdal's view on disarmament, see ALVA MYRDAL, *THE GAME OF DISARMAMENT: HOW THE UNITED STATES AND RUSSIA RUN THE ARMS RACE* (1976).

120. During this period, testing programs were conducted by nuclear-weapon States within and outside their own territories, including in the commons. For example, between 1946 and 1958 the United States alone conducted sixty-seven tests in the Pacific Islands region (which effectively became its nuclear weapons testing laboratory), including the detonation of a hydrogen bomb on March 1, 1954, that produced around fifteen megatons of power, equivalent to one thousand Hiroshima bombs. As scientific data began to emerge pointing to the severe long-term impact on human health of the radioactive fallout from testing, women's organizations such as WILPF began to focus their attention on the health implications of testing as a basis upon which to prevent further testing. The fact that the

sought to maximize the potential that the new institutions and processes offered, although it would take very many decades before some of their proposals would subsequently be adopted by States. For example, in the early 1950s WILPF appealed to the fledgling World Health Organization to consider the public health implications of nuclear weapons testing, but the suggestion was rejected on the grounds that the “issue of experiments with nuclear weapons is a political issue . . . and we at WHO must, of course, abstain from any discussion of political questions.”¹²¹ Two decades later, the World Health Assembly adopted a resolution deploring “all nuclear weapons testing which result in such an increase in the level of ionizing radiation in the atmosphere” and urged the “immediate cessation” of testing.¹²² Amidst the

data was also showing that women were experiencing multiple miscarriages and stillbirths, and were giving birth to babies with severe mental and physical defects as a consequence of testing, gave additional weight to arguments that such programs were having different and disproportionate adverse effects on women. The challenge for organizations such as WILPF was identifying the institutional entry point through which their voices could be registered.

121. 13TH CONGRESS REPORT, *supra* note 99, at 24. It was the view of the then-secretary-general of the World Health Organization (WHO) that the matter did not fall within the purview of the organization. Recalling her efforts to convince the organization to alter course, Baer states,

I had taken the stand that WHO was responsible for the protection of public health on a world-wide scale and that this responsibility was challenged through the fact that the lives and health of many people might be and were indeed threatened through the effect of experimental bombing in peace-time. But WHO remained adamant in asserting that there was no possibility of including this question in their deliberations.

Id. at 23. The WHO instead focused its attention to the health consequences of atomic energy. The value of this work aside, WILPF continued to maintain its position that “military uses of atomic energy [was] of greater importance than its peaceful uses.” 16TH CONGRESS REPORT, *supra* note 115, at 122.

122. World Health Organization, Res. WHA 26.57 (1973), *reprinted in* 2 HANDBOOK OF RESOLUTIONS AND DECISIONS OF THE WORLD HEALTH ASSEMBLY AND THE EXECUTIVE BOARD, 1973-1984, at 121 (1985). In 1981 the World Health Assembly adopted Resolution WHA 34.38 declaring the promotion and preservation of peace as the single most important factor in achieving health for all and, in collaboration with the UN Secretary-General, established a committee of scientists and experts to undertake a “comprehensive study and elucidation of the threat of thermonuclear war and its potentially baneful consequences for the life and health of peoples of the world.” Res. WHA 34.38 (1981), *reprinted in id.* at 398. The report, released in 1983, concluded that it was impossible to prepare health services to deal in any systematic way with a catastrophe resulting from nuclear warfare and that “the only approach to the treatment of the health effects of nuclear explosions is primary pre-

increasing levels of testing among nuclear-weapon States, and undeterred by the institutional resistance confronted, feminist activists continued to use all opportunities available to them, including the international law-making process, as a means by which to prevent further nuclear testing.¹²³

At the national level, growing numbers of women joined mainstream civil society movements to protest against nuclear testing by their respective

vention of such explosions, that is the prevention of atomic war.” Report of the International Committee of Experts in Medical Sciences and Public Health to Implement Resolution WHA 34.38, at 7, Doc. A36/12 (Mar. 24, 1983). In 1993 the Director-General of the World Health Organization noted that the report “constituted WHO’s major contribution to the International Year of Peace (1986).” Report by the Director-General of the World Health Organization, Health and Environmental Effects of Nuclear Weapons ¶ 10, WHO Doc. A46/30 (Apr. 26, 1993). The question of the WHO’s mandate also arose in connection with the proposal to request the International Court of Justice for an advisory opinion on the legality of nuclear weapons under international law and the WHO’s Constitution. While the Australian delegate to the World Health Assembly expressed the view that “the legality of nuclear weapons . . . was a political issue which did not fall into the arena of world health and it was therefore inappropriate for the Health Assembly to consider it,” most States disagreed and the request was passed 75–33 with 5 abstentions. 46th World Health Assembly: Summary Records of Committees 268, WHA Doc. 46/1993/REC/3 (May 12, 1993). Although the International Court of Justice found that Article 2 of the WHO’s Constitution could be read “as authorizing the Organization to deal with the effects on health of the use of nuclear weapons . . . and to take preventive measures aimed at protecting the health of the populations in the event of such weapons being used or such activities engaged in,” Article 2 did not confer upon the Organization a “competence to address the legality of the use of nuclear weapons.” Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion, 1996 I.C.J. 227, ¶ 21 (July 8).

123. WILPF had recognized the potential of introducing a provision forbidding nuclear testing into the International Law Commission’s draft Convention on the Freedom of the High Seas and actively lobbied States to support the proposal. Although the final agreed draft of the Convention on the High Seas did not specifically address testing, WILPF welcomed the inclusion of Article 25, which appeared to provide the possibility for an end to testing. Gertrude Baer, *Nuclear Tests on High Seas*, 14TH CONGRESS REPORT, *supra* note 98, at 49–51. However, much to the disappointment of activists, the rejection of an express proposal to prohibit testing was interpreted by States as permitting testing. This reading of the Convention was made unambiguous by the chairman of the US delegation to the negotiations who, commenting on the treaty, stated “a variety of undesirable Russian proposals, among them a rule banning nuclear tests on the high seas—the adoption of which would have prevented the tests recently conducted at Eniwetok, and negotiations on that subject now going on in Geneva—were defeated.” Arthur H. Dean, *The Geneva Conference on the Law of the Sea: What was Accomplished*, 52 AMERICAN JOURNAL OF INTERNATIONAL LAW 607, 627 (1958). That States were misstating the adverse consequences of testing prompted WILPF to adopt a resolution at their 1962 conference expressing their “alarm [at] the attempts being made deliberately to underestimate the dangers of nuclear testing.” 15TH CONGRESS REPORT, *supra* note 116, at 104.

governments, only to experience similar patterns of marginalization within such movements. Frustrated that their specific concerns were not being given due consideration,¹²⁴ women began to establish parallel organizations, exemplified by the formation of the US-based Women Strike for Peace.¹²⁵ The Women Strike for Peace garnered considerable popular support among mainstream America, leading to one the largest women's protests of the twentieth century when, on November 1, 1961, fifty thousand women marched in sixty cities in the United States to demonstrate against nuclear weapons testing. In adopting strategies that conformed with prevailing ideas around women's role in society as mothers,¹²⁶ the Women Strike for Peace leadership was able to capitalize on public support and thereby exert some influence over the Kennedy administration's decision to adopt the Limited

124. See Amy Swerdlow, *Ladies' Day at the Capitol: Women Strike for Peace versus HUAC*, 8 FEMINIST STUDIES 493 (1982). According to Swerdlow, the five women who established the Women Strike for Peace were previously members of the National Committee for a Sane Nuclear Policy (SANE) but

gravitated toward each other because of their mutual distaste for SANE's internal red hunt, which they felt contributed to an escalation, rather than an end to cold war hysteria . . . [and] resented the reluctance of SANE's male leadership to deal with "mother's issues" such as the contamination of milk by radioactive fallout from nuclear tests.

Id. at 509.

125. The emergence of Women Strike for Peace must also be seen in the context of rising feminist activism in the United States with the publication of Betty Friedan's book, *The Feminine Mystique*. BETTY FRIEDAN, *THE FEMININE MYSTIQUE* (1963). Although it was rightly criticized for its narrow perspective, the book became a bestseller and to that extent was highly influential within popular culture, in particular, among white middle class women.

126. For example, see interview with Dagmar Wilson, the long-standing spokesperson for the Women Strike for Peace, where Wilson stated:

You know how men are. They talk in abstractions and the technicalities of the bomb, almost as if this were all a game of chess. Well, it isn't. . . . There are times, it seems to me, when the only thing to do is let out a loud scream. . . . Just women raising a hue and cry against nuclear weapons for all of them to cut it out.

Quoted in Elaine Woo, *Dagmar Wilson Dies at 94; Organizer of Women's Disarmament Protesters*, LOS ANGELES TIMES (Jan. 30, 2011), <https://www.latimes.com/local/obituaries/la-me-dagmar-wilson-20110130-story.html>. For how shifting gender identities influenced women's political activism, see also Lisa Yaszek, *Stories 'That Only a Mother' Could Write*, 16 NATIONAL WOMEN'S STUDIES ASSOCIATION JOURNAL, Summer 2004, at 70, 72–73 (2004).

Test Ban Treaty in 1963.¹²⁷ The “politics of motherhood” strategy nevertheless alienated the more progressive generation of feminists who viewed such strategies as perpetuating sex role stereotypes and thus wholly counter-productive in the struggle for gender equality.¹²⁸ Committed to challenging socially constructed notions of women, these feminists rejected being identified through traditional role models as mothers and wives but rather sought to claim political power as women on an equal basis with men. Although the Women Strike for Peace secured mainstream public support in the early years, this did not shield them from the toxic political climate of the 1960s.¹²⁹ Nor, for that matter, did public support last when the activists stepped outside their traditional feminine roles to challenge the culture of militarism and of political ideology.¹³⁰ For anti-war feminist activists, the consequences of

127. Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, Aug. 5, 1963, 14 U.S.T. 1313, 480 U.N.T.S. 43. The treaty entered into force in October 1963 with the ratification by the United States, the Soviet Union, and the United Kingdom. On how much influence the Women Strike for Peace had on Kennedy’s decision, see Swerdlow, *supra* note 124, at 496–97; Susan Frances Dion, *Challenges to Cold War Orthodoxy: Women and Peace, 1945-1963*, at 221–22 (Sept. 1991) (Ph.D. dissertation, Marquette University). Although the Women Strike for Peace maintained a constant barrage of activities, including letter writing, political lobbying, demonstrations, and vigils, the political influence wielded by the group should not be overstated. The Kennedy administration was already in discussions with the Soviet Union over the prospect of banning testing in both bilateral and multilateral fora. Efforts to negotiate a treaty had been ongoing since 1955 within the Subcommittee of Five (United States, United Kingdom, Canada, France, and Soviet Union) of the UN Disarmament Commission and talks were ongoing within the Eighteen-Nation Disarmament Committee. Between 1958 and 1963 the General Assembly adopted a dozen resolutions pressing for a test ban agreement under international control. Although all talks came to a standstill in 1962, culminating in the Cuban Missile Crisis in October of that year, following the crisis direct talks resumed between the United States, the Soviet Union, and the United Kingdom and by the spring of 1963 agreement had been reached to negotiate a test ban treaty.

128. For anti-war feminist activists it was the essentialist discourse, reasoning, and strategies adopted by the Women Strike for Peace that were problematic.

129. In 1962 members of the Women Strike for Peace and WILPF, and other women peace activists, were required to testify before the House Committee on Un-American Activities as part of an investigation into “communist activities in the peace movements.” Somewhat problematically, the Women Strike for Peace justified their opposition to the arms race and nuclear testing by identifying themselves as mothers anxious to protect their children. Hearings before the H. Comm. on Un-American Activities, 87th Cong. 2074 (1963).

130. Six years later, when the same women protested against Vietnam, they were castigated by the media for being “too militant.” Geoff Eley, *From Welfare Politics to Welfare States:*

speaking out during this period were harsh: sometimes they were criminalized,¹³¹ often they were silenced and their organizations were forced to disband,¹³² and always they were ostracized for their political views and their gender.¹³³

Women and the Socialist Question, in *WOMEN AND SOCIALISM – SOCIALISM AND WOMEN* 516 (Helmut Gurber & Pamela Graves eds., 1998).

131. According to Dion, Marjorie Swann, a WILPF activist, was arrested and sentenced to a West Virginia federal women's prison for protesting against nuclear missiles in 1959. Dion, *supra* note 127, at 65. Likewise, throughout the 1980s and 1990s, hundreds of women peace activists protesting the deployment of US cruise missiles with nuclear warheads at Greenham Common in the United Kingdom were arrested and criminalized for breaching bylaws introduced by the government in 1985 pursuant to the 1892 Military Lands Act.

132. In the United States, women's organizations with left wing sympathies were targeted and some, including the Congress of American Women (CAW), were forced to disband, having come under the scrutiny of the House Committee on Un-American Activities. See, e.g., H.R. REP. NO. 81-1953 (1949) (report by the House Committee on Un-American Activities on the Congress of American Women). The CAW was established in 1946 and was racially diverse and founded on strong feminist/pacifist principles. However, it was aligned to the Women's International Democratic Federation, an organization which was seen as a "front" for the Soviet Union and consequently its members came under enormous pressure during the McCarthy years. See Harriet Hyman Alonso, *Mayhem and Moderation: Women Peace Activists during the McCarthy Era*, in *NOT JUNE CLEAVER: WOMEN AND GENDER IN POSTWAR AMERICA, 1945-1960*, at 148 (Joanne Meyerowitz ed., 1994). The history of the Women's International Democratic Federation itself remains buried and only in recent years have academics begun to reverse the legacy of the Cold War to surface the histories of Second and Third World women's movements. See, e.g., FRANCISCA DE HAAN, *THE WOMEN'S INTERNATIONAL DEMOCRATIC FEDERATION: HISTORY, MAIN AGENDA AND CONTRIBUTIONS 1945-1991* (2012); Magdalena Grabowska, *Beyond the "Development" Paradigm: State Socialist Women's Activism, Transnationalism, and the "Long Sixties,"* in *WOMEN'S ACTIVISM AND "SECOND WAVE" FEMINISM: TRANSNATIONAL HISTORIES* 147 (Barbara Moloney & Jennifer Nelson eds., 2017); KRISTEN GHODSEE, *SECOND WORLD, SECOND SEX: SOCIALIST WOMEN'S ACTIVISM AND GLOBAL SOLIDARITY DURING THE COLD WAR* (2019). Although the Women's International Democratic Federation was concerned with disarmament, few records remain of, for example, the 1962 World Gathering of Women for Disarmament convened by the Women's International Democratic Federation that brought together feminist activists from fifty-nine States calling for the ending of nuclear testing, the destruction of atomic weapons stockpiles, and the dismantling of military bases and withdrawal of troops stationed on foreign territory. *WOMEN'S INTERNATIONAL DEMOCRATIC FEDERATION, WORLD GATHERING OF WOMEN FOR DISARMAMENT* (1962). Likewise, few records exist on the activities of the European Movement of Women against Nuclear Armament.

133. Archival records and more recent scholarship have revealed the extent of the hostility directed towards feminist peace activist protesting the deployment of nuclear weapons by local communities. See, for example, Home Office papers on Powers and Procedures of the Police: Greenham Common, HO287/3094.

Notwithstanding the hostile domestic environment and escalating Cold War tensions, women activists continued to build transnational bonds seeking out issues upon which they could unite. The decision by the UN to designate 1975 as International Women's Year and to organize a conference in Mexico City around the themes of equality, development, and peace, presented anti-war activists of different ideological leanings with an opportunity to identify common strategic objectives, including disarmament.¹³⁴ However, attempts to place the issue on the main agenda were met with stiff resistance by States on the grounds that the subject matter would "politicize" women's issues. Disarmament, it was maintained, was a matter wholly extraneous and unrelated to women's rights.¹³⁵ Recognizing that at stake was more than simply the question of disarmament, but the need to break the cycle of self-fulfilling marginalization more broadly, activists from WILPF, the Women's International Democratic Federation, and the Jane Addams Peace Association joined forces to convene an event in parallel to the main conference. Following the event, a joint statement was issued calling for the reallocation of military budgets to development aid and the "equitable representation of men and women" in international efforts to further disarmament, including in the proposed UN Disarmament Conference.¹³⁶ As a result of intensive lobbying by activists, a commitment to "general and complete disarmament" was incorporated into the final Declaration.¹³⁷ Largely due to WILPF's efforts, disarmament was also integrated into the main agenda in subsequent

134. For a useful overview of the decade, see Irene Tinker & Jane Jaquette, *UN Decade for Women: Its Impact and Legacy*, 15 *WORLD DEVELOPMENT* 419 (1987).

135. This view was also shared by many First World women during the Copenhagen conference who took the position that political issues detracted from those "common" to all women. Nilufer Cagatay, Caren Grown & Aida Santiago, *The Nairobi Women's Conference: Toward a Global Feminism?*, 12 *FEMINIST STUDIES* 401, 403 (1986). See also de Haan, who offers a damning critique on how "western-oriented feminists, women's organizations and scholars, wittingly or not, contributed to and continue to contribute to that process of discursively constructing Western or U.S. hegemony in the field of women's rights." Francisca de Haan & Eugenie Cotton, *Pak Chong-ae, and Claudia Jones: Rethinking Transnational Feminism and International Politics*, 25 *JOURNAL OF WOMEN'S HISTORY* 174, 176 (2013).

136. WILPF, Women's International Democratic Federation, & Jane Addams Peace Association, *Statement of Findings: International Women's Year Disarmament Seminar (May 9, 1975)* (on file in the Mildred E. Persinger Collection, Hollins University, Wyndham Robertson Library, United Nations World Conferences, Mexico, International Women's Year, IWY 1975: UN: IWY Disarmament Conference).

137. Report of the World Conference of the International Women's Year, *Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace*, ¶ 30, U.N. Doc. E/CONF.66/34 (1976).

conferences held as part of the UN Decade for Women (1976–85) in Copenhagen (1980) and Nairobi (1985). These incremental steps paved the way for the 1995 Beijing Declaration and Platform for Action, not only to expressly recognize women’s history of activism in calling “for reductions in military expenditures worldwide, as well as in international trade and trafficking in and the proliferation of weapons,” but to reframe disarmament as integral to the fulfilment of women’s rights.¹³⁸

Albeit non-binding, the Platform for Action reinforces the link between disarmament and development¹³⁹ and commits States to reducing “excessive military expenditures, trade in arms and investment for arms production and acquisition” and to “reallocate funds to social and economic development for the advancement of women.”¹⁴⁰ In short, disarmament was recast as a means to advance women’s de facto equality with men, a move that was widely welcomed among activists. That said, the commitment is a modest one. As Dianne Otto rightly notes, the goal of reducing “excessive” military expenditure is “qualified to the point of meaninglessness by being made subject to ‘national security considerations’ or ‘legitimate national defence needs.’”¹⁴¹

Although forward-looking, the Platform for Action is also a constant reminder of past State failure to advance disarmament. It does so by *recalling* the obligation on States “to work actively towards general and complete disarmament under strict and effective international control” and by urging for the conclusion of a comprehensive nuclear-test-ban treaty to contribute to nuclear disarmament, objectives that had been pledged in other international fora over the preceding decades but not acted upon. By the terms of the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT), States were already bound by the *legal* obligation to advance general and complete

138. Report on the Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, ¶ 138, at 58, U.N. Doc. A/CONF.177/20/Rev.1 (1996) [hereinafter *Beijing Declaration and Platform for Action*]; see also Report of the Fourth World Conference on Women: Addendum, U.N. Doc. A/CONF.177/20/Add.1 (Oct. 27, 1995). These documents were endorsed by G.A. Res. 50/203 (Feb. 23, 1996).

139. For a useful history on UN efforts to link disarmament and development, see SPIES, *supra* note 108, ch. 6.

140. See *Beijing Declaration and Platform for Action*, *supra* note 138, ch. 4, § E (Women and Armed Conflict).

141. Dianne Otto, *Holding up Half the Sky, but for Whose Benefit: A Critical Analysis of the Fourth World Conference on Women*, 6 AUSTRALIAN FEMINIST LAW JOURNAL 7, 24 (1996).

disarmament.¹⁴² More specifically, Article VI of the NPT requires States to “pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.”¹⁴³ These three obligations were reaffirmed in the Final Document of the 1978 Special Session of the General Assembly on Disarmament¹⁴⁴ and other UN reports endorsed by the General Assembly. Yet,

142. Treaty on the Non-Proliferation of Nuclear Weapons art. 6, July 1, 1968, 21 U.S.T. 483, T.I.A.S. No. 6839, 729 U.N.T.S. 161. It entered into force on March 5, 1970 and was extended indefinitely on May 11, 1995. A total of 191 States are Parties, including the five nuclear-weapon States. Although welcoming the adoption of the treaty, WILPF sent a letter to the two co-Chairs of the Eighteen-Nation Disarmament Committee expressing profound disappointment that the treaty did not require the nuclear-weapon States to “provide for speedy measures of effective disarmament.” WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, 17TH INTERNATIONAL CONFERENCE 74 (1968). The adoption of the treaty paved way for the UN’s Disarmament Decade (1969–1979).

143. In elaborating on the scope and effect of this obligation, the International Court of Justice in its advisory opinion stated,

The legal import of that obligation goes beyond that of a mere obligation of conduct; the obligation involved here is an obligation to achieve a precise result—nuclear disarmament in all its aspects—by adopting a particular course of conduct, namely, the pursuit of negotiations on the matter in good faith.

This twofold obligation to pursue and to conclude negotiations formally concerns the 182 States parties to the Treaty on the Non-Proliferation of Nuclear Weapons, or, in other words, the vast majority of the international community.

Virtually the whole of this community appears moreover to have been involved when resolutions of the United Nations General Assembly concerning nuclear disarmament have repeatedly been unanimously adopted. Indeed, any realistic search for general and complete disarmament, especially nuclear disarmament, necessitates the co-operation of all States.

Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, ¶¶ 99–100 (July 8).

144. The Final Document states:

The ultimate objective of the efforts of States in the disarmament process is general and complete disarmament under effective international control. . . . Progress toward this objective requires the conclusion and implementation of agreements on the cessation of the arms race and on genuine measure of disarmament. . . .

Among such measures, effective measures of nuclear disarmament . . . have the highest priority.

G.A. Res. A/RES/S-10/2, ¶¶ 19–20 (June 28, 1978). Although some nuclear-weapon States have suggested that general and complete disarmament is a precondition to nuclear disarmament, this view is not reflected in the Final Document, nor is it a view shared by the majority of legal experts.

despite repeated pronouncements,¹⁴⁵ there were no serious negotiations to advance disarmament and throughout the Cold War period States continued to grow their nuclear capabilities, ostensibly to protect national security.

The bilateral and multilateral agreements adopted during the Cold War period did not secure any reduction in arms nor establish a coherent and universally applicable “system for the regulation of armaments,” as set forth in Article 26 of the UN Charter.¹⁴⁶ Rather, what emerged was a fragmented

145. For example, see the 1970 Declaration on Friendly Relations in which States undertook to “pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament.” G.A. Res. 2625, annex, ¶ 1, Declaration on Principles of International Law Concerning Friendly Relations and Co-Operation among States in Accordance with the Charter of the United Nations (Oct. 24, 1970). Two further Special Sessions on Disarmament were held in 1982 and 1988 but with few outcomes. The General Assembly has been calling for a fourth session since 1995.

146. See, for example, the UK Ministry of Defence publication “Arms Control and Security” which stated:

much effort has been put into the arms control process since the Second World War. There have been some notable successes: the Anti-Ballistic Missile Treaty [1972]; the interim Strategic Arms Limitation Treaty [1972]; the [1963] Partial Test Ban and [1968] Nuclear Non-Proliferation Treaties; the [1971] Biological Weapons Convention; and several other lesser agreements. *But despite all efforts, very little has been achieved in the way of actual arms reductions.* Most agreements have either confirmed existing force levels or have been designed to prevent the development of completely new areas of arms technology.

John Nott, Statement on the Defence Estimates 1982 (Apr. 5, 1982) (on file with The National Archives, Kew, CAB 129/214/9) (emphasis added). This point was emphasized in the Final Document of the 1978 Special Session of the General Assembly on Disarmament which stated:

No real progress has been made so far in the crucial field of reduction of armaments. . . . Agreements have been reached that have been important in limiting certain weapons or eliminating them altogether, as in the case of the [biological weapons convention] and excluding particular areas from the arms race. The fact remains that these agreements relate only to measures of limited restraint while the arms race continues. These partial measures have done little to bring the world closer to the goal of general and complete disarmament.

G.A. Res. A/RES/S-10/2, *supra* note 144, ¶ 17.

body of treaties which operated to advantage the strategic interests of militarily advanced States¹⁴⁷ and, through the notion of non-proliferation, to defer, in perpetuity, the prospect of nuclear disarmament.¹⁴⁸ The disjuncture between de jure progress and de facto change and the disconnect between rhetoric and practice extended to women's equal participation in multilateral fora concerned with weapons and disarmament.¹⁴⁹ Impervious to normative change, the field continued to be dominated by men, despite the obligation of States to take all appropriate measures to ensure women's equal participation in political life at national and international levels, including in international organizations pursuant to the 1979 Convention on the Elimination

147. Without the support of the United States *and* the Soviet Union, it is unlikely that the biological or chemical weapons conventions would have been agreed. Moreover, as Mathews and McCormack note,

the principal motivation for concluding the [CWC] had less to do with the deleterious consequences of the weapons from a humanitarian point of view, and more to do with other strategic security factors—most importantly the growing concerns about horizontal proliferation of chemical weapons and the recognition by both the USA and Russia that they did not need to retain their chemical weapons stockpiles following the Cold War.

Robert J. Mathews & Timothy L.H. McCormack, *The Influence of Humanitarian Principles in the Negotiation of Arms Control Treaties*, 81 INTERNATIONAL REVIEW OF THE RED CROSS 331, 339 (1999).

148. The practice of nuclear-weapon States has been to interpret Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons narrowly to mean that it contains no legal requirement to conclude negotiations notwithstanding the pronouncement by the International Court of Justice in its 1996 advisory opinion. See *Legality of the Threat or Use of Nuclear Weapons*, 1996 I.C.J. 226. Legal experts have also been critical of this interpretation, as exemplified by the 2004 International Law Association report which stated: “the demise of arms control and disarmament efforts would be contrary to the ICJ advisory opinion, which has clearly identified an obligation for nuclear-weapon States to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective control.” COMMITTEE ON ARMS CONTROL AND DISARMAMENT LAW, INTERNATIONAL LAW ASSOCIATION, FINAL REPORT ON INTERNATIONAL AND NATIONAL LEGAL REGULATION FOR ARMS CONTROL AND DISARMAMENT ¶ 5 (2004). For an alternative view, see Christopher A. Ford, *Debating Disarmament: Interpreting Art. VI of the Treaty on Non-Proliferation of Nuclear Weapons*, 14 NONPROLIFERATION REVIEW 401, 403 (2007).

149. The absence of women is indicative of a failure on the part of States to meet minimum non-discrimination obligations under the Charter and other international human rights instruments, including the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW].

of All Forms of Discrimination Against Women (CEDAW).¹⁵⁰ Women continued to remain in the minority and, when included, generally consigned to positions scripted female with little decision-making power.¹⁵¹ At the intersection with sex and gender, exclusion founded on race and ethnicity served to doubly silence and exclude, thereby translating into laws and policies, national and international, that were systematically failing to take account of women's lived experiences and, most significantly, their views on what constituted insecurity and how to tackle it.

For anti-war feminists, the Cold War had exposed the extent to which the age-old forces of militarism and patriarchy—*transcending political difference*—operated in tandem to exclude alternative voices and to block meaningful progress towards universal disarmament which legal inclusion alone, even if actualized, could not surmount.¹⁵² After all, the enormous efforts to dispel State claims around the economic and social costs of general and complete disarmament had delivered no progress;¹⁵³ studies on the social and

150. *Id.* Article 7 of CEDAW states:

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8 of CEDAW requires States Parties to “take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.”

151. There were however exceptions. For example, Inga Thorsson, who was Under-Secretary of State at the Swedish Ministry of Foreign Affairs and Chairman of the Swedish Disarmament Delegation to the United Nations, was appointed president of the First Non-Proliferation Treaty Review Conference in 1976. For an illuminating insight, see the interview with Thorsson. *Inga Thorsson*, 8 *THIRD WORLD QUARTERLY* 16, 37 (1986).

152. Feminists had long cautioned that equality would require change “not only in law, but also in social customs and beliefs.” Margaret Bruce, *Work of the United Nations Relating to the Status of Women*, 2 *REVUE DES DROITS DE L'HOMME: DROIT INTERNATIONAL ET DROIT COMPARE* 365, 365 (1971).

153. By the mid-1960s, macro-economic arguments grounded in Keynesian economics (that the reduction in public expenditure would translate into high unemployment) had all but been refuted. The Consultative Group on Economic and Social Consequences of Disarmament established pursuant to General Assembly Resolution 1516 had reached the unanimous conclusion that “all the problems and difficulties of transition connected with

human cost of weapons were acknowledged but indefinitely postponed;¹⁵⁴ legal arguments dismissed for being non-justiciable;¹⁵⁵ and ideological differences aside, nuclear-weapon States would regularly resort to identical claims when expedient to do so.¹⁵⁶ For antiwar feminists, it had become all too clear that only wholesale transformative change would suffice. With elites across the political spectrum continuing to justify the accumulation of greater and more destructive stockpiles of weapons on the basis of national security,

disarmament could be met by appropriate national and international measures,” and that “there should thus be no doubt that the diversion to peaceful purposes of the resources now in military use could be accomplished to the benefit of all countries and lead to the improvement of world economic and social conditions.” *Quoted in* U.N. Secretary-General, *Economic and Social Consequences of Disarmament* iv, U.N. Doc. E/3593/Rev.1 (1962). The General Assembly subsequently adopted a declaration on the conversion to peaceful needs of the resources released by disarmament. G.A. Res 1837 (Dec. 18, 1962). Although the General Assembly was to adopt further resolutions on the matter and commission the Secretary-General to undertake further study (*see, e.g.*, Secretary-General, *Economic and Social Aspects of Disarmament*, U.N. Doc. E/3898/Rev. 1 (Oct. 7, 1964), *reprinted in* DOCUMENTS ON DISARMAMENT 1964, at 256 (U.S. Arms Control and Disarmament Agency ed., 1965)), little progress materialized. WILPF had long pressed for further studies to highlight the benefits of reallocating military resources to further social development. *See* Gertrude Baer, *Report on Work with and at the United Nations* 24, 16TH INTERNATIONAL CONGRESS, *supra* note 115.

154. U.N. Secretary-General, *Economic and Social Consequences of the Arms Race and of Military Expenditures*, U.N. Doc. A/32/88/Rev.1 (Aug. 12, 1977). *See also* G.A. Res. 2667 (Dec. 7, 1970); G.A. Res. 2831 (Dec. 16, 1971); G.A. Res. 3075 (Dec. 6, 1973); G.A. Res. 3462 (Dec. 11, 1975).

155. *See, e.g.*, *Greenham Women Against Cruise Missiles v. Reagan*, 591 F. Supp. 1332 (S.D.N.Y. 1984). The case involved the deployment of 160 cruise missiles at a Royal Air Force military base in the United Kingdom. It was dismissed by the court on the grounds that the issue raised was “a non-justiciable political question.” *Id.* at 1336. It added that “The courts are simply incapable of determining the effect of the missile deployment on world peace.” *Id.* at 1338.

156. Justifying Soviet nuclear testing in 1961, Premier Khrushchev said:

It is not radioactive fallout that has to be feared but the falling of the actual nuclear weapon. . . . If you balance the harm of nuclear tests to the health of the people against the consequences of the military application of nuclear weapons, it will be obvious to everyone what choice has been put before mankind today. . . . The Government of the U.S.S.R. would not have fulfilled its duty if it did not fittingly look after the security of the Soviet people.

Quoted in Howard J. Taubenfeld, *Nuclear Testing and International Law*, 16 SOUTHWESTERN LAW JOURNAL 365, 366 (1962). Likewise, President Kennedy, although “deeply regret[ting]” additional testing, suggested that it was necessary to balance the risk to health against “the hazards to hundreds of millions of lives which would be created by any relative decline” in US nuclear capabilities. *Quoted in id.* at 366.

feminist activists and scholars increasingly directed their attention to the *systems of power* and to the pivotal role of gender in sustaining both militarism and patriarchy that were, in turn, perpetuating and normalizing the demand for weapons.¹⁵⁷ The utility and significance of gender as an analytic prism through which to expose the mechanisms of both militarism and patriarchy, and as a way in which to dismantle and transform social relations, was not lost on feminist scholars, notwithstanding diverse ontological and epistemological viewpoints and differences in disciplinary traditions.¹⁵⁸ As an analytic tool, gender would also provide a supplementary entry point through which

157. See generally CYNTHIA ENLOE, DOES KHAKI BECOME YOU? THE MILITARIZATION OF WOMEN'S LIVES (1983); CYNTHIA ENLOE, BANANAS, BEACHES AND BASES: MAKING FEMINIST SENSE OF INTERNATIONAL POLITICS (1989). Scales called for militarism and the structures of militarism to be on the feminist agenda given the "perverse symbiotic relationship between militarism and gender oppression." Ann Scales, *Militarism, Male Dominance and Law: Feminist Jurisprudence as Oxymoron*, 12 HARVARD WOMEN'S LAW JOURNAL 25, 26 (1989). Although some earlier feminist scholarship equated militarism with patriarchy, suggesting "to be male is synonymous with strength, aggression and the will to dominate and do violence to others," anti-war feminists were quick to caution against dualist thinking for being "dangerous" and for disregarding how particular femininities are needed to sustain militarism. Bell Hooks, *Feminism and Militarism: A Comment*, 23 WOMEN'S STUDIES QUARTERLY 58, 59 (1995). Writing in 1915, Jane Addams too recognized that "the belief that a woman is against war simply because she is a woman and not a man cannot be substantiated. In every country there are women who believe that war is inevitable and righteous." Jane Addams, *Women and Internationalism*, in WOMEN AT THE HAGUE 128 (1915).

158. "Gender," as Squires observes, "is a complex and contested concept." JUDITH SQUIRES, GENDER IN POLITICAL THEORY 54 (2013). Over the years, gender has been used in different ways although its origins as a critical prism of analysis can be traced to the writings of Simone de Beauvoir and her radical insight, articulated in 1949, that "[o]ne is not born, but rather becomes, woman." SIMONE DE BEAUVOIR, THE SECOND SEX 301 (1973). As Squires notes, de Beauvoir's existentialist account of social construction "offered a sweeping critique of biological determinism" creating the intellectual space to distinguish between sex and gender, with the latter being the cultural interpretation of sex as a biological category. SQUIRES, *supra* at 55. Butler argues that this distinction opened the way to "debunk the claim that anatomy is destiny"; to expose the myth that a binary gender system has no ontological necessity; to tackle social oppression founded on discrimination; and to transform social interaction. Judith Butler, *Sex and Gender in Simone de Beauvoir's Second Sex*, 72 YALE FRENCH STUDIES 35, 35 (1986). Building on these insights, feminist scholarship has traced the manifold ways in which gender operates to construct identities—individual and collective—that are contingent on time and location. Other work has explored gender as a way of structuring relations of power. See, e.g., ANNE SISSON RUNYAN & V. SPIKE PETERSON, GLOBAL GENDER ISSUES IN THE NEW MILLENNIUM (2015). Still others have investigated gender as a symbolic system that functions to shape all aspects of life, including at the intersection with other axes of oppression, such as race. See BELL HOOKS, AIN'T I A WOMAN (1981).

to contest the militarized State-centric conception of security, presenting the possibility to fundamentally reframe the discourse around weapons.

IV. REFRAMING

“How then are we to understand your problem, and if we cannot, how can we answer your question, how to prevent war? The answer based upon our experience and our psychology—Why fight?—is not an answer of any value.”

Virginia Woolf, 1938¹⁵⁹

By the 1990s there was a growing body of feminist research revealing the complex ways in which gender worked to shape identities, relations of power, discourse, the production of knowledge, symbols, material objects, policy, and law.¹⁶⁰ This work enriched earlier feminist scholarship which had traced how patriarchy as a form of power privileging male domination operated through gender systems to constitute, order, and shape social and cultural practices and norms.¹⁶¹ Institutionalized through the law and further entrenched through the public/private divide,¹⁶² gender systems, it was

159. WOOLF, *supra* note 10, at 6.

160. On critiquing the objectivity of knowledge production, see, for example, *DISCOVERING REALITY: FEMINIST PERSPECTIVES ON EPISTEMOLOGY, METAPHYSICS, METHODOLOGY, AND PHILOSOPHY OF SCIENCE* (Sandra Harding & Merrill Hintikka eds., 1983). Feminist historians exploring ways in which gender operated to erase women from history and how to redress this structural silencing embarked on the political project of writing women back into history. See, e.g., Joan W. Scott, *Gender: A Useful Category of Historical Analysis*, 91 *THE AMERICAN HISTORICAL REVIEW* 1053 (1986); Joan W. Scott, *History and Difference*, *DAEDALUS*, Fall 1987, at 93. International law scholars likewise began to trace the gendered discursive patterns and assumptions within their discipline to account for and explain the law’s silences to challenge the law’s impartiality. See Hilary Charlesworth, Christine Chinkin & Shelly Wright, *Feminist Approaches to International Law*, 85 *AMERICAN JOURNAL OF INTERNATIONAL LAW* 613 (1991). As Gardam notes, “much of the feminist project in law has been to demonstrate the fallacy of the objectivity of the law, to reveal its underlying assumptions and value judgments as made by, and in the interests of, men.” Judith Gardam, *A Feminist Analysis of Certain Aspects of International Humanitarian Law*, 12 *AUSTRALIAN YEAR BOOK OF INTERNATIONAL LAW* 265, 268 (1992).

161. See, for example, Pateman who reflects on the contested understandings of patriarchy. CAROLE PATEMAN, *THE SEXUAL CONTRACT* (1991). There is now a significant body of literature on patriarchy, but for a recent comment on international law and patriarchy, see Cassandra Mudgway, *Smashing the Patriarchy: Why International Law Should Be Doing More*, LSE (Oct. 7, 2019), <https://blogs.lse.ac.uk/wps/2019/10/07/smashing-the-patriarchy/>.

162. Feminists have at least since the eighteenth century questioned the divide between public and private that has enabled the privileging of the former. MARY WOLLSTONECRAFT, *A VINDICATION OF THE RIGHTS OF WOMEN* (1978).

maintained, function to establish dichotomies to differentiate between male and female activities and roles and, in that process, create power hierarchies privileging attributes coded “male” over “female.”¹⁶³ These insights exposed the extent to which gendered norms shape human behavior, interaction, and value systems that have little or no relationship with sexed bodies and identities and thus provided a richer understanding of the history of women’s political exclusion as rooted in constructed gender identities and binary systems founded on social and cultural practices contingent on time and location. In other words, gender could not be understood as a static category any more than gender identities be limited to singular definitions of masculinity or femininity.¹⁶⁴

In particular, it was the scholarship being generated by feminist international relations scholars who were directing their scrutiny to the gendered

163. While feminist work has detailed how gendered hierarchies are justified by reference to biological/natural determinism by those in power to confer on themselves certain privileges, other scholars have demonstrated how the very same claims are made to justify racial hierarchies. Feminists have now long insisted that gender as a category cannot be abstracted from a particular context since it is always only one component in a matrix of interrelationships in which other systems of identities and axes of oppression, such as race and class, operate concurrently. As Bartlett notes:

Although feminists have been guilty of ethnocentrism and all too often fail to recognize that women's lives are heterogeneous, that women who have had similar experiences may disagree about political agendas, and that women's gender is only one of many sources of identity, gender remains a category that can help to analyze and improve our world.

Katharine Bartlett, *Feminist Legal Methods*, 103 HARVARD LAW REVIEW 829, 835 (1990).

164. Feminist scholars have been at pains to stress that patriarchal systems are adept at spawning different forms and types of masculinities and femininities that dominate, in particular, places and in time. *See, e.g.*, CYNTHIA COCKBURN, *ANTIMILITARISM: POLITICAL AND GENDER DYNAMICS OF PEACE MOVEMENTS* (2012); CYNTHIA COCKBURN, *FROM WHERE WE STAND: WAR, WOMEN’S ACTIVISM AND FEMINIST ANALYSIS* (2007). In 2010, the CEDAW Committee elaborated on this relational conception of “gender” to mean

socially constructed identities, attributes and roles for women and men and society’s social and cultural meaning for these biological differences resulting in hierarchical relationship between women and men and in the distribution of power and rights favouring men and disadvantaging women. This social positioning of women and men is affected by political, economic, cultural, social, religious, ideological and environmental factors and can be changed by culture, society and community.

Committee on the Elimination of Discrimination against Women, General Recommendation No 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women, ¶ 5, U.N. Doc. CEDAW/C/GC/28 (Dec. 16, 2010).

dimensions of global politics, inter-State relations, and war as a system which opened up new avenues through which to understand the intersection of patriarchy and militarism.¹⁶⁵ In contrast to mainstream work, feminists looked to the local as much as the global, revealing how gender operated to structure and shape relations of power, producing difference and normalizing hierarchies between States and within States, between men and women, and *among* men and women in war and peacetime.¹⁶⁶ Most notably, Cynthia Enloe's work tracing the ways in which masculinities and femininities were being manipulated to service militarism¹⁶⁷ and normalize certain forms of violence,¹⁶⁸ including war, was instrumental in inspiring further work map-

165. See ENLOE, DOES KHAKI BECOME YOU?, *supra* note 157. See also V. Spike Peterson, *Transgressing Boundaries: Theories of Knowledge, Gender, and International Relations*, 21 MILLENNIUM: JOURNAL OF INTERNATIONAL STUDIES 183 (1992); J. ANN TICKNER, GENDER IN INTERNATIONAL RELATIONS: FEMINIST PERSPECTIVES ON ACHIEVING GLOBAL SECURITY (1992); BETTY REARDON, SEXISM AND THE WAR SYSTEM (1985). As with patriarchy, there is a large body of literature on militarism. For a useful collection of papers by mainstream international relations scholars, see MILITARISM AND INTERNATIONAL RELATIONS (Anna Stavrianakis & Jan Selby eds., 2013).

166. What this scholarship was showing was that the ability of States to engage in warfare is contingent on the creation of a "war system"—from training (men) to fight and kill, to equipping them with the appropriate tools, to channeling resources into research and development, manufacturing, transport, meeting their individual and collective needs, and in shaping masculinities (whether as fighter, as administrator, as scientist, as clinician) and femininities (as colleague, as supporter, as provider) in a manner conducive to war-fighting. A gender analysis enabled interrogating how masculinities and femininities are constructed to enable warfare, challenging the claim that men are biologically or naturally war-like. See also JOSHUA GOLDSTEIN, WAR AND GENDER: HOW GENDER SHAPES THE WAR SYSTEM AND VICE VERSA (2001).

167. As Enloe notes, "militarization may privilege masculinity, but it does so by manipulating the meanings of both femininity and masculinity." CYNTHIA ENLOE, MANOEUVRES: THE INTERNATIONAL POLITICS OF MILITARIZING WOMEN'S LIVES 289 (2000). See also Riedi, *supra* note 25, on gender politics and militarism in the context of the Boer War.

168. Over the years the question of "male violence" has been the topic of much study. As Messner cautions,

the term "male violence" tends to suggest that violence is an essential feature of maleness, rather than a socially-learned feature of certain kind of masculinity. Indeed, concrete social-scientific examinations of violence show that there is no convincing evidence that men are genetically or hormonally predisposed to violent behaviour. In fact, the weight of evidence supports the contention that most males are not comfortable committing acts of violence. Violent behaviour is learned behaviour, and some men learn it better than others.

ping how patriarchy linked militarized femininities to militarized masculinities sustaining the domination of certain brands of masculinity that, in turn, fueled the demand for weapons at personal and inter-State levels.¹⁶⁹

In parallel with this work and under the influence of poststructuralist theory and the linguistic turn, feminist scholars were exploring how gender operated in thought, speech, and writing through webs of metaphors, euphemism, and reasoning. This intellectual shift created the potential—through the disruption, deconstruction, and reconstruction of the discourse around weapons—to pave the way for a radical change in practice, no more so than in the sphere of nuclear weapons. In this context, it was Carol Cohn’s fieldwork that broke new ground, revealing the ways in which the gendered discourse around nuclear weapons functioned to legitimate and promote the development, possession, and use of such weapons, posing obstacles to disarmament.¹⁷⁰ Cohn’s work was pivotal in surfacing the gendered language, concepts, and symbolism prevalent in the nuclear weapons field, including the manifold ways in which the possession of such weapons systems were systematically equated with the “attributes” commonly coded masculine, including, for example, strength, sexual virility, rationality, objectivity, and abstraction.¹⁷¹

Michael Messner, *When Bodies are Weapons: Masculinity and Violence in Sport*, 25 INTERNATIONAL REVIEW FOR THE SOCIOLOGY OF SPORT 203, 205 (1990).

169. There is a growing body of feminist research engaging with “militarized masculinities,” understood as processes of socialization that are enacted and performed. For a thoughtful reflection on anti-militarist feminist scholarship in the context of the Security Council’s Women, Peace and Security agenda, see Hannah Wright, *Masculinities Perspectives: Advancing a Radical Women, Peace and Security Agenda?*, 22 INTERNATIONAL FEMINIST JOURNAL OF POLITICS 652 (2020). For an analysis sketching the intimate relationship between enactments of masculinities and the wielding of weapons, see Henri Myrntinen, *Disarming Masculinities*, 4 DISARMAMENT FORUM: WOMEN, MEN, PEACE AND SECURITY 37 (2003).

170. Carol Cohn, *Sex and Death in the Rational World of Defense Intellectuals*, 12 SIGNS 687 (1987). Cohn’s research was undertaken in a period when the nuclear arms race had reached a level where military superiority no longer had any meaning and when deterrence theory dominated mainstream scholarship.

171. When India exploded five nuclear devices in May 1998, Hindu nationalist leader Balasaheb Thackeray stated, “we had to prove that we are not eunuchs.” *Quoted in* Cohn & Ruddick, *supra* note 7, at 19. Likewise, more recently, in a twitter exchange between Donald Trump and North Korea’s Kim Jong-un, the former tweeted, “I too have a Nuclear Button, but it is a much bigger & more powerful one than his, and my Button works!” Lauren Gambino, *Donald Trump Boasts That His Nuclear Button Is Bigger Than Kim Jong-un’s*, GUARDIAN (Jan. 3, 2018), <https://www.theguardian.com/us-news/2018/jan/03/donald-trump-boas>

Uncovering the gendered symbolic value and meaning attached to weapons was seen as a critical step towards challenging the underlying rationale that sustained the valorization of weapons, most notably nuclear. A gender analysis not only revealed how the possession of nuclear weapons was intimately conjoined with militarized masculinities wielding a powerful symbolic value in the construction of the role of men in society from the local to the global level but the extent to which the gendered discourse facilitated the *development* and *use* of nuclear weapons.¹⁷² Clinical, technical, formulaic, abstract, and detached language, again coded masculine, permeated the nuclear weapons field—whether among political elites or those engaged in the development of such weapons—making it possible to subordinate consideration of, or to elide, the material, experienced, and corporal consequences of their use. In short, the gendered discourse turned what should have been the unthinkable into a rational prospect.¹⁷³

For anti-war feminist scholars, unraveling the gendered symbolic value of weapons, their intimate association with, and pivotal part in constructing, patriarchal power and models of militarized masculinities and femininities was a critical step toward securing transformative change. Recognizing weapons as more than simply the tools through which coercive power and violence was applied but deconstructing the co-constitutive relationship between weapons and gender opened up the possibility of developing meaningful counter-strategies to dismantle the obstacles to disarmament. Thus, in contrast to mainstream scholarship which continued to fall back on the age-old claim that “[men] do not fight because they have arms. They have arms because they deem it necessary to fight”¹⁷⁴—admitting no room to surmount

ts-nuclear- button-bigger-kim-jong-un. For anti-war feminists, these overtly sexualized public pronouncements and exchanges served to reinforce feminist analyses pointing to the pivotal role of gender in perpetuating the demand for nuclear weapons. The essence of masculinity could be defined and measured by the possession of the ultimate weapon of destruction.

172. Carol Cohn, Felicity Hill & Sara Ruddick, *The Relevance of Gender for Eliminating Weapons of Mass Destruction* (The Weapons of Mass Destruction Commission Paper No. 38 (2006)), https://genderandsecurity.org/sites/default/files/the_relevance_of_gender_for_eliminating_weapons_of_mass_destruction_-_cohn_hill_ruddick.pdf.

173. Cohn, *supra* note 170, at 715.

174. HANS J. MORGENTHAU, *POLITICS AMONG NATIONS: THE STRUGGLE FOR POWER AND PEACE* 115 (1967). Throughout the Cold War period, mainstream scholarship, most notably the field of International Relations and Security Studies, was dominated by the realist school and later by the emergence of neorealist approaches. The dominance of this school was probably what Alva Myrdal had in mind when, in referring to the industrial-

the stalemate—feminist scholarship provided an alternative entry point to reframe and rejuvenate the disarmament debate and, at the same time, to inform and shape the trajectory of feminist activism.

As with other critical traditions, anti-war scholars have also been critical of the political strategy of non-proliferation, most notably in its existing application to nuclear weapons.¹⁷⁵ That the effect of the regime as elaborated in the NPT is to legitimize the possession of nuclear weapons by the original nuclear-weapon States and to sanction, by default, a deviation from the principle of sovereign equality, thereby normalizing a hierarchy¹⁷⁶ further entrenched through international law is a common criticism.¹⁷⁷ Feminist scholarship has taken this critique one step further to expose the extent to which

military complex, she added “academic.” MYRDAL, *supra* note 119. See also Hans J. Morgenthau, *Does Disarmament Mean Peace?*, in *ARMS AND FOREIGN POLICY IN THE NUCLEAR AGE* 417, 422 (Milton L. Rakove ed., 1972). Bull likewise reasons that the competition for arms is a function of the competition for power and “a mutually satisfactory settlement of the power contest is a precondition for disarmament.” He continues, “the fact that the arms race contributes to political tension does not diminish the difficulty that it cannot be brought to an end without the ending of this tension.” Hedley Bull, *Disarmament and the International System*, in *THEORIES OF PEACE AND SECURITY: A READER IN CONTEMPORARY STRATEGIC THOUGHT* 138 (John Garnett ed., 1970).

175. Non-proliferation is a term dating back to the Cold War that is understood to apply to weapons of mass destruction—chemical, biological, radiological, and nuclear—rather than conventional weapons. Developed as a strategy that sought to maintain the status quo and the extant balance of power, non-proliferation, as a standalone concept, does not entail the reduction in weapons and implicitly allows for a distinction to be made between legal and illegal possession and use.

176. As White points out, this hierarchical stratification of power is duplicated in other conventions such as the Genocide Convention (which extends to the members of the Security Council the authority to decide on whether genocide was being committed) and the Rome Statute (empowering the Security Council to refer and defer cases). See Nigel White, *Understanding Nuclear Deterrence Within the International Constitutional Architecture*, in *5 NUCLEAR NON-PROLIFERATION IN INTERNATIONAL LAW: LEGAL CHALLENGES FOR NUCLEAR DETERRANCE AND SECURITY* 107 (Jonathan L. Black-Branch & Dieter Fleck eds., 2020).

177. The NPT is often referred to be a “grand bargain” between nuclear-weapon States and non-nuclear-weapon States and to that extent parallels the unequal distribution of power upon which the UN Charter is founded. The deviation from equality was agreed to, ostensibly on the basis that the nuclear-weapon States are to be trusted with such privileges in exchange for security, although the paradox is that it was the policies of the permanent members of the Security Council which increased international insecurity through the arms race. Although the United Kingdom has tellingly described the NPT as “the most widely adhered to arms control treaty in history” it is difficult to see how such a conclusion can be arrived at in light of the obligations set forth in the treaty and the practice of States. Briefing

the discourse is steeped in gendered rhetoric. As Carol Cohn and Sara Ruddick maintain, it is not uncommon for the permanent members of the Security Council to be depicted as the protectors of security, always rational, objective, responsible, technologically advanced, and coded masculine versus non-nuclear-weapon States that are portrayed either as in need of protection or irrational, emotional, irresponsible, and technologically backward and oftentimes coded feminine.¹⁷⁸ These narratives have, in turn, become the basis for consolidating the status quo. Through their scholarship, Claire Duncanson and Catherine Eschle have likewise highlighted the ways in which nuclear-weapon States have persistently invoked a gendered rhetoric to justify the retention of nuclear capabilities, albeit one that relies on redefined masculinities in a post-Cold War environment.¹⁷⁹

The changing nature of armed violence that unfolded with the end of the Cold War drew in a new generation of feminist scholars whose focus has been primarily on small arms and light weapons (SALW), corresponding to a shift in attention within the UN system from weapons of mass destruction to the proliferation of SALW.¹⁸⁰ This research traced the gender dimensions of SALW to show how their proliferation was giving rise to different and disproportionate insecurities for women and girls, most especially in

notes of March 8, 1996 from the Ministry of Defence to the office of the Prime Minister (on file with The National Archives, Kew, PREM 19/6222). Although nuclear-weapon States have continued to maintain that pursuant to the NPT they are legally entitled to possess nuclear weapons, their obligation is to work towards the elimination of their weapons, a requirement that was strengthened at the 2000 NPT Review Conference with the commitment to “an unequivocal undertaking . . . to accomplish the total elimination of their nuclear arsenals.” 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final Document: Review of the Operation of the Treaty, Taking into Account the Decisions and the Resolution Adopted by the 1995 Review and Extension Conference* 14, U.N. Doc. NPT/CONF.2000/28 (Parts I and II) (2000).

178. Carol Cohn & Sara Ruddick, *A Feminist Ethical Perspective on Weapons of Mass Destruction*, in ETHICS AND WEAPONS OF MASS DESTRUCTION, *supra* note 7, at 405.

179. Duncanson & Eschle, *supra* note 7. In the cyber world, it is the “techno geek” who is central to the redefined conception of masculinity.

180. By 1995, the UN’s attention and resources were shifting from weapons of mass destruction to the proliferation of SALW and anti-personnel landmines in the context of non-international armed conflict. The need for greater regulation of anti-personnel landmines was also a matter being addressed by States, albeit, in the view of many, inadequately, in the context of the Convention on Certain Convention Weapons. Report of the Secretary-General, *Supplement to an Agenda for Peace 14: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, U.N. Doc. A/50/60-S/1995/1 (Jan. 25, 1995).

post-conflict environments;¹⁸¹ that the proliferation of SALW and with it the creation of weaponized cultures were a product of, and reinforce, patriarchal hierarchies and militarism; and that, as with weapons of mass destruction, SALWs are “the embodiment of violent, often militarized models of masculinity.”¹⁸² Importantly, this research questioned the traditional distinction between war and peace and conceptions of security wedded to the territorial State which was failing to capture the everyday violence that women were experiencing in weaponized societies.

In parallel with this work, feminist international relations scholars were tracing the links between inter-State security and gendered insecurities “to draw attention to the extent to which gender hierarchies themselves [were] a source of domination and thus an obstacle to a truly comprehensive definition of security.”¹⁸³ Feminist scholars were not alone in urging for a more expansive understanding of security that placed the individual’s security at the core of the inquiry rather than simply the security of the State.¹⁸⁴ While earlier iterations of “human security” can be traced to renewed efforts during the early 1980s by the UN to press for the redirection of resources from military expenditure to development,¹⁸⁵ it was the 1994 Human Develop-

181. For example, see the 2011 Secretary-General’s report on women, peace and security, which states, “gender-based violence is more prevalent and more severe when guns are readily available.” U.N. Secretary-General, *Women and Peace and Security*, ¶ 39, U.N. Doc. S/2011/598 (Sept. 29, 2011). See also GRADUATE INSTITUTE OF INTERNATIONAL AND DEVELOPMENT STUDIES, GENEVA, SMALL ARMS SURVEY 2014: WOMEN AND GUNS (2014).

182. Henri Myrtilinen, *Disarming Masculinities*, 4 DISARMAMENT FORUM: WOMEN, MEN, PEACE AND SECURITY 37, 41 (2003).

183. TICKNER, *supra* note 165, at 53. Scholars asked whether social organizations—not least the State—were capable of delivering on an authentic meaningful security if they were founded on relationships of domination and subordination, whether by gender, race, or class. Feminist activists had, at least since the UN Decade of Women, questioned the narrow, militarized State-centric conception of security. See, e.g., Inga Thorsson, *Disarmament and Development*, WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, 23RD INTERNATIONAL CONGRESS (1986).

184. The discourse around security “would appear to have colonized our minds and to have subjugated other ways of understandings relations among states.” Carol Cohn, *Emasculating America’s Linguistic Deterrent*, in ROCKING THE SHIP OF STATE 154 (Adrienne Harris et al. eds., 1989).

185. Proposals for linking disarmament with development have been aired since the 1950s, prompted largely by the General Assembly pursuant to its mandate under Article 26 of the Charter:

ment Report that catapulted the idea of “human security” onto the international agenda, injecting new life into antiwar scholarship and activism.¹⁸⁶ In particular, the report called for a change in the concept of security from an exclusive stress on State security to a much greater stress on people’s security, from security through armaments to security through human development, and from territorial security to food, employment, and environmental security. This re-conceptualization of security not only served as the theo-

In order to promote the establishment and maintenance of international peace and security with the least diversion for armament of the world’s human and economic resources, the Security Council shall be responsible for formulating . . . plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

However, it was the increase in military expenditure in comparison to gross national product growth among Third World countries during the 1970s and 1980s that prompted renewed interest in the linkage and that shaped the thematic direction of the disarmament debate, paralleling the broader international focus on development. *See also supra* notes 153 and 154. The General Assembly held two special sessions on Disarmament and Development (1978 and 1982) and convened an international conference in 1987. *See International Conference on the Relationship between Disarmament and Development, Report of the Conference*, ¶ 22, U.N. Doc. A/CONF.130/39 (Sept. 22, 1987). During this period, WILPF also continued to actively link disarmament and development, with the difference that activists advocated for the reallocation of resources to be targeted to measures to address gender inequality. *See WILPF’s twentieth international congress in 1977 on the theme of “Disarmament and Development, Women’s Priority: Building a World Without Weapons or Want.” WOMEN’S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, 20TH INTERNATIONAL CONGRESS (1977)*. As the WHO had done so in the early 1950s in respect of nuclear weapons, throughout the Cold War period international financial institutions recused themselves from discussions pertaining to arms reduction for being a “sensitive and political” issue. DEVESH KAPUR, JOHN LEWIS, & RICHARD WEBB, *THE WORLD BANK: ITS FIRST HALF CENTURY* 533 (1997).

186. UNITED NATIONS DEVELOPMENT PROGRAMME, *HUMAN DEVELOPMENT REPORT 1994: NEW DIMENSIONS OF HUMAN SECURITY* (1994). The report noted that notwithstanding the decline in global military spending between 1987 and 1994 the reductions in military spending had not been redirected towards human development. For a critical reflection on the concept of human security, see CHRISTINE CHINKIN & MARY KALDOR, *INTERNATIONAL LAW AND NEW WARS* ch. 11 (2017).

retical foothold for the emergence of the idea of “humanitarian disarmament”¹⁸⁷ but in that process brought together different constituencies of actors, including anti-war feminists, to unite to work towards advancing those shared goals.¹⁸⁸

For anti-war feminists, the concept of humanitarian disarmament presented an opportunity to contest and reshape international law’s trajectory as introduced at the 1899 Peace Conference when, much to the disappointment of feminist peace activists, the failure to advance disarmament had instead paved the way for the development of IHL. Anti-war feminists have for the most part remained skeptical of IHL’s potential to “protect”¹⁸⁹ let alone further disarmament, even partial, given that its primary concern is to regulate the use of weapons in war through the two “cardinal” principles of IHL, distinction and unnecessary suffering.¹⁹⁰ Distinction, which translates

187. At the international level, the United Nations Institute for Disarmament Research helped to reposition debates within a human security framework by launching a project in 2004 on “Disarmament as Humanitarian Action: Making Multilateral Negotiations Work.” For a useful analysis on the history of and thinking on humanitarian disarmament, see Bonnie Docherty, *Ending Civilian Suffering: The Purpose, Provisions, and Promise of Humanitarian Disarmament Law*, 15 AUSTRIAN REVIEW OF INTERNATIONAL & EUROPEAN LAW 7 (2010); Richard Slade, Robert Tickner & Phoebe Wynn-Pope, *Protecting Humanity from the Catastrophic Humanitarian Consequences of Nuclear Weapons: Reframing the Debate Towards the Humanitarian Impact*, 97 INTERNATIONAL REVIEW OF THE RED CROSS 731 (2015).

188. The 1899 Peace Conference may have paved the way for a wholly new model of civil society engagement in the *shaping* of international law, but humanitarian disarmament has given rise to a new model of *treaty-making* involving coalitions of international non-governmental organizations and like-minded States working together to secure new treaties to ban landmines and cluster munitions. Thus, in contrast to earlier models where international non-governmental organizations lobbied States to initiate and secure changes in law, this new model is grounded in law-making from the margins to the center. In other words, the line between influencing the content and direction of law and the power to create law has been disrupted.

189. See, for example, the Statement by the Disarmament Committee, *supra* note 73 (“We have no belief in the possibility of humanising warfare nor defending civilian populations . . . from modern methods of waging war.”).

190. The principle of unnecessary suffering is traced to the St. Petersburg Declaration, which condemned the use of weapons “which uselessly aggravate the suffering of disabled men, or render their death inevitable.” Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight, Nov. 29/Dec. 11, 1868, 138 Consol. T.S. 297, 18 Martens Nouveau Recueil (ser. 1) 474. The International Court of Justice described these two principles as “cardinal” in its 1996 advisory opinion. *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996 I.C.J. 226, ¶ 78 (July 8). For a feminist critical analysis, see Judith Gardam, *The Silences in the Rules that Regulate Women during Times of*

into the principle of discrimination in assessing the lawfulness of a weapon per se, may have played some part in prohibiting chemical and biological weapons,¹⁹¹ but, for critical feminists, its inadequacy was laid bare in respect of nuclear weapons.¹⁹² Moreover, feminist critique was hampered by the fact that the principle of unnecessary suffering—the measure by which weapons could be deemed lawful or not—was understood to apply exclusively to the effects of weapons on combatants on the basis that IHL prohibits attacks on the civilian population by virtue of the principle of distinction.¹⁹³ The paradox was that IHL’s dichotomized structure and mode of reasoning functioned to suppress consideration of its stated ambition—humanitarian protection. More generally, feminist legal scholars remained reticent to engage with IHL given its agnosticism towards the practice of collective violence and an anxiety that, by integrating gender into the fabric of the law, the legitimacy of resorting to violence in the first place would be reinforced, albeit indirectly.

Armed Conflict, in OXFORD HANDBOOK OF GENDER AND CONFLICT (Fionnuala Ni Aolain et al., eds. 2018).

191. Humanitarian concerns have not as a rule been the primary motivation for States to further arms control. See Mathews & McCormack, *supra* note 147.

192. See the International Court of Justice’s advisory opinion on the legality of nuclear weapons, where the court could only conclude that “the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law.” *Legality of the Threat or Use of Nuclear Weapons*, 1996 I.C.J. 226, ¶ 105(2)(E).

193. This interpretation is supported by the text of the relevant provisions in the treaties, State practice, and the ICRC. The origins of the prohibition on weapons that cause “superfluous injury” or “unnecessary suffering” date to the agreements entered into by States attending the 1899 Peace Conference. Article 23(e) of the regulations annexed to the 1899 Hague Convention II prohibits the use of “arms, projectiles, or material of a nature to cause superfluous injury.” Regulations Respecting the Laws and Customs of War on Land art. 23(e), annexed to Convention No. II with Respect to the Laws and Customs of War on Land, July 29, 1899, 32 Stat. 1803, T.S. No. 403. The prohibition was reaffirmed at the second Peace Conference with the adoption of the 1907 Hague Convention IV Respecting the Laws and Customs of War on Land. Article 22 states “the right of belligerents to adopt means of injuring the enemy is not unlimited,” while Article 23 prohibits the use of “poison or poisoned weapons” and “arms, projectiles, or material calculated to cause unnecessary suffering.” Regulations Respecting the Laws and Customs of War on Land arts. 22, 23, annexed to Convention No. IV Respecting the Laws and Customs of War on Land Oct. 18, 1907, 36 Stat. 2227, T.S. No. 539. The prohibition was once again codified in the form of Article 35(2) of Additional Protocol I to the 1949 Geneva Conventions. Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts art. 35(2), June 8, 1977, 1125 U.N.T.S. 3.

By contrast, anti-war feminists have embraced humanitarian disarmament as a concept and method. On a conceptual level, it introduced the possibility to consider the impact of weapons on all persons (irrespective of status) at all times (thereby disrupting the oftentimes unhelpful distinction between peace and armed conflict), and draws on *both* IHL and international human rights law, the latter being a body of law far more aligned with feminist conceptions of protection.¹⁹⁴ Rather than asking whether a weapon can distinguish between lawful and unlawful targets, the inquiry shifted attention to the effects of the weapon. As a method, it unsettled traditional ideas around the making of international law as a right exclusively confined to States, thereby dispersing power.¹⁹⁵ Feminist support for humanitarian disarmament proved to be well-placed. Reframing the inquiry culminated in the adoption of the 1997 Ottawa Treaty banning anti-personnel mines¹⁹⁶ and the 2008 Convention on Cluster Munitions.¹⁹⁷ And it was the recognition by States in the Final Document of the 2010 NPT Review Conference of “the catastrophic humanitarian consequence of any use of nuclear weapons” that paved the way for further discussions on the humanitarian impact of nuclear weapons to be aired over the course of following years, resulting in the adoption of the 2017 Treaty on the Prohibition of Nuclear Weapons.¹⁹⁸

Although feminist scholarship had long maintained that weapons create and exacerbate gendered insecurities, the concept of humanitarian disarmament opened up the possibility for researchers to further interrogate the gendered effects of specific weapons, spawning an increasing body of evidence documenting the different and often disproportionate adverse effects that

194. For example, instead of inquiring whether the weapon can be deployed in a manner to distinguish between lawful and unlawful targets, humanitarian disarmament directs attention to the material effects of specific weapons on the population across an extended temporal period. It could be argued that the effect of this reasoning is to extend the prohibition of superfluous injury and unnecessary suffering to the civilian population.

195. ALAN BOYLE & CHRISTINE CHINKIN, *THE MAKING OF INTERNATIONAL LAW* (2007).

196. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, Sept. 17, 1997, 2056 U.N.T.S. 211.

197. Convention on Cluster Munitions, May 30, 2008, 2688 U.N.T.S. 39.

198. Treaty on the Prohibition of Nuclear Weapons, July 7, 2017, 57 INTERNATIONAL LEGAL MATERIALS 347 (2018) (entered into force Jan. 22, 2021).

specific categories of weapons have on women due to their sex and gender.¹⁹⁹ Studies on the effects of nuclear weapons—from their use in wartime to testing in peacetime—exposed both the particular harms caused to women and girls due to their sex,²⁰⁰ as well as the disproportionate adverse harms that result due to their gender.²⁰¹ Research has been undertaken in respect of conventional weapons and similar findings documented.²⁰² The

199. For example, *SEXED PISTOLS: THE GENDERED IMPACTS OF SMALL ARMS AND LIGHT WEAPONS* (Vanessa A. Farr et al. eds., 2009). See also *GENDER PERSPECTIVES ON SMALL ARMS AND LIGHT WEAPONS: REGIONAL AND INTERNATIONAL CONCERNS* (Vanessa A. Farr & Kiflemariam Gebre-Wold eds., 2002). What much of this research revealed was the siloed approach that had hitherto been adopted by States in developing strategies to regulate arms failed to consider the gendered dimensions of weapons. As Farr observes, “although weapons proliferation is often culturally sanctioned and upheld by the manipulation of gender ideologies, gender goes entirely unremarked in all documents which were not explicitly conceived to focus on gender mainstreaming.” Vanessa A. Farr, *A Gendered Analysis of International Agreement on Small Arms and Light Weapons*, in *id.* at 17.

200. For examples of scientific studies on the physical and mental health impact of nuclear weapons, see INTERNATIONAL LAW AND POLICY INSTITUTE & UNITED NATIONS INSTITUTE FOR DISARMAMENT RESEARCH, *GENDER, DEVELOPMENT AND NUCLEAR WEAPONS* ch. 3 (2016). Studies cited found that the risk of developing and dying from solid cancer due to ionizing radiation exposure was nearly twice as high for women as for men who survived the attacks on Hiroshima and Nagasaki, with many women dying from breast cancer. Evidence documenting the effects of nuclear weapons on pregnant women, in particular, is hugely disturbing. See, for example, the testimony of Lijon Eknilang of Rongelap Atoll in the Marshall Islands case before the International Court of Justice:

Women on the island . . . have given birth to babies that look like blobs of jelly. Some of these things we carry for eight months, nine months. There are no legs, no arms, no head, no nothing. Other children are born who will never recognize this world or their own parents. They just lie there with crooked arms and legs and never speak. Already we have seven such children.

Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marsh. Is. v. U.K.), Verbatim Record, ¶ 10, <https://www.icj-cij.org/public/files/case-related/160/160-20160311-ORA-01-00-BI.pdf>.

201. Anne G. Dimmen, *Gendered Impacts: The Humanitarian Impacts of Nuclear Weapons from a Gender Perspective* (International Law and Policy Institute-UN Institute for Disarmament Research Paper No. 5 (2014)).

202. Empirical research consistently shows that while men and boys generally make up the majority of victims, women and girls experience different and often disproportionate harms. For example, studies have shown that females injured by landmines are less likely to have access to immediate health care and therefore more likely to die from serious injuries. Stella Salvagni Varó & Ciro Hamo, *Post-conflict Recovery: Gender and Age Issues*, 17 THE JOUR-

reframing of the inquiry, which has enabled the traditional limitations of time and space to be overcome in assessing the impact of weapons, is an approach more closely aligned with feminist critical scholarship, which has long been troubled by the fracturing of reality constituted by policy and law.²⁰³ The dichotomized structure of policy, entrenched principally through public international law and IHL, was failing to capture the complex gendered effects of weapons that were both particular (contingent on time and space) and universal (producing common patterns of gendered harm). By contrast, humanitarian disarmament enabled the realization that for very many women and girls, the harmful effects of weapons—from nuclear to SALW—are oftentimes no less significant in peacetime nor, for that matter, in the private realm. The effects are simply different. Likewise, for feminist legal scholars, humanitarian disarmament's grounding in international human rights law provided the potential to raise alternative perspectives that had hitherto been suppressed, require States to consider the *human* cost of use and, importantly, introduce an additional legal route through which States could be held responsible for their actions and omissions in the field of arms control.

The advancements secured through humanitarian disarmament have been greater than originally anticipated. However, by definition, there is a limit to what can be achieved since to focus on the effects of a weapon is to risk losing sight of the forces that propel the demand for weapons. The champions of humanitarian disarmament rely on stigmatizing the weapon to address demand,²⁰⁴ but this strategy has also resulted in entrenching the extant parallel approaches to disarmament, each side more convinced of its own reasoned position. What has been surfaced through this parallel process are the unshakeable bonds that exist among and between those States that have invested in weapons, transcending all other disagreements.²⁰⁵ Those

NAL OF ERW AND MINE ACTION 32 (2013). Gender analyses have also been critical in designing and delivering appropriate support for victims as is now required by the terms of the conventions adopted under humanitarian disarmament.

203. As Scales elaborates, “a feminist theory and practice attempts to account for the fracturing of reality, and then to make reality whole again.” Scales, *supra* note 157, at 52.

204. The International Campaign to Abolish Nuclear Weapons describes itself as the “international campaign to stigmatise, prohibit and eliminate nuclear weapons.” See ICAN, <https://www.icanw.org/> (last visited May 21, 2021).

205. For example, see the Joint Statement on the Treaty on the Non-Proliferation of Nuclear Weapons, released by the permanent five members of the Security Council on October 24, 2018:

bonds are the bonds of patriarchy and militarism. Feminist engagements with and support for humanitarian disarmament as a strategy is likely to continue, although it is a strategy that falls short of universal and total disarmament, the ambition that was embraced by feminist peace activists a century ago. Moreover, in an age when extraordinary levels of harm—material and otherwise—can be inflicted without the use of a weapon and weapon system as such, humanitarian disarmament, which is concerned with the effects of a *weapon*, is likely to have little reach.²⁰⁶

Although initially marginalized, feminist analyses have increasingly come to the attention of mainstream policy-shapers in the disarmament field who have begun to recognize the potential that a gender analysis can provide to further disarmament.²⁰⁷ For example, in his *Agenda for Disarmament*, the UN Secretary-General recommends,

all States should also incorporate gender perspectives in the development of national legislation and policies on disarmament and arms control, including consideration of the gendered aspects of ownership, use and misuse of arms; the differentiated impacts of weapons on women and men;

[W]e reiterate our opposition to the Treaty on the Prohibition of Nuclear Weapons. We firmly believe that the best way to achieve a world without nuclear weapons is through a gradual process that takes into account the international security environment. This proven approach to nuclear disarmament has produced tangible results, including deep reductions in the global stockpiles of nuclear weapons.

Press Release, UK Government, P5 Joint Statement on the Treaty on the Non-Proliferation of Nuclear Weapons (Oct. 24, 2018), <https://www.gov.uk/government/news/p5-joint-statement-on-the-treaty-on-the-non-proliferation-of-nuclear-weapons>.

206. Jeffrey Biller & Michael Schmitt, *Classification of Cyber Capabilities and Operations as Weapons, Means, or Methods of Warfare*, 95 INTERNATIONAL LAW STUDIES 179 (2019).

207. A report released by the Weapons of Mass Destruction Commission in 2006 noted how feminist research had “rightly observed that armament policies and the use of armed forces have often been influenced by misguided ideas about masculinity and strength. An understanding of and emancipation from this traditional perspective might help to remove some of the hurdles on the road to disarmament and non-proliferation.” THE WEAPONS OF MASS DESTRUCTION COMMISSION, WEAPONS OF TERROR: FREEING THE WORLD OF NUCLEAR, BIOLOGICAL AND CHEMICAL ARMS 160 (June 1, 2006). The Commission’s report was informed by Carol Cohn, Felicity Hill, and Sara Ruddick’s work, *The Relevance of Gender for Eliminating Weapons of Mass Destruction*, *supra* note 172, as was the UN Institute for Disarmament Research’s 2016 publication, *Gender, Development and Nuclear Weapons*, *supra* note 200.

and the ways in which gender roles can shape arms control and disarmament policies and practices.²⁰⁸

Feminist scholarship and activism have made significant inroads in shaping policy and law-making at domestic and international levels in the course of the last three decades and “gender” is now integral to the mainstream lexicon.²⁰⁹ Yet, notwithstanding such breakthroughs, anti-war feminists remain

208. The need to take account of the gender dimensions of weapons was very much integral to the speech delivered by the Secretary-General when launching the report:

And there is also a strong gender dimension to this work. Almost universally, guns are infused with masculine characteristics. Men make up the overwhelming majority of the owners and users of firearms. Women are several times more likely to be victims of gun violence than perpetrators. The presence of excessive and unregulated firearms exacerbates gender-based violence and shores up traditional gender roles and power relations. We must prevent a culture of violence and bloodshed, and a cycle that is difficult to break.

Guterres, *supra* note 1. Feminist activists are engaged in important work in the area of SALW and disarmament, demobilization, and reintegration. For example, see CHRISTINE BUTEGWA, GENDER PERSPECTIVES IN ARMS CONTROL AND DISARMAMENT: VIEWS FROM AFRICA (2020). However, this work is primarily, if not exclusively, concerned with addressing the proliferation of weapons among non-State actors. As such, there is a risk that integrating this within the Women, Security and Peace agenda as “arms control and disarmament” will detract attention from the more radical feminist agenda of calling for universal disarmament of States.

209. Gender mainstreaming has been official UN policy since 1997 with the adoption of the Economic and Social Council’s Agreed Conclusions stressing the need to incorporate gender perspectives into all areas of the UN’s work. Economic & Social Council, Coordination of Policies and Activities of the Specialized Agencies and Other Bodies of the United Nations System Related to the Following Theme: Mainstreaming the Gender Perspective into All Policies and Programmes in the United Nations System, U.N. Doc. E/1997/L.30 (July 14, 1997). Gender mainstreaming can be traced to women’s activism in the early 1990s and the campaign to mainstream issues of women’s rights and gender equality into the international system as a technique to overcome the problem of marginalization. Mainstreaming was first endorsed at the 1993 Vienna World Conference on Human Rights and reaffirmed in 1995 at the Beijing World Conference on Women. For feminist activists, the use of the term “gender” as distinct from “sex” by the multilateral institutions represented a huge breakthrough since gender expressed the reality that women’s and men’s roles and status are socially and culturally constructed rather than biologically determined and therefore could be changed. See the Secretary-General’s report, Integrating the Gender Perspective into the Work of United Nations Human Rights Treaty Bodies, which states,

the term “gender” refers to the socially constructed roles of women and men that are ascribed to them on the basis of their sex, in public and in private life. The term “sex” refers

skeptical that the current trajectory will deliver fundamental change, not least since “gender” is still equated to “women” by too many and “gender mainstreaming” treated as an after-thought rather than a perspective that informs both the inquiry and solution. In addition, there remains an ever-present anxiety that gender mainstreaming, as Anne Orford cautions, “may mean that feminism ends up simply facilitating the existing projects and priorities of militarised economic globalization in the name of protecting and promoting the interests of women.”²¹⁰

Such fears are not unwarranted. Feminist legal scholars and activists may have played an active role in pressing for the integration of human rights and a novel provision on gender-based violence into the text of the 2013 Arms Trade Treaty,²¹¹ but they nonetheless remained acutely aware of the downsides entailed in supporting a treaty that sought “to stop *irresponsible* arms trade or transfers.”²¹² As with the nuclear non-proliferation discourse, the distinction between lawful and unlawful weapons—a distinction that generally corresponds not to the weapon per se but to the status of the weapon bearer—has the twin effect of legitimizing the weapons-bearing State actor as well as the weapon itself. The Arms Trade Treaty may have been widely celebrated among the humanitarian community for furthering arms control, but critical feminists bemoaned the fact that what it concurrently does is to leave untouched the *lawful* trade in arms, diverting attention from the fact

to the biological and physical characteristics of women and men. Gender roles are contingent on a particular socio-economic, political and cultural context, and are affected by other factors, including age, race, class and ethnicity. Gender roles are learned, and vary widely within and between cultures. As social constructs, they can change.

U.N. Secretary-General, *Integrating the Gender Perspective into the Work of United Nations Human Rights Treaty Bodies*, ¶ 16, U.N. Doc. HRI/MC/1998/6 (Sept. 3, 1998).

210. Anne Orford, *Feminism, Imperialism and the Mission of International Law*, 71 *NORDIC JOURNAL OF INTERNATIONAL LAW* 275, 283 (2002).

211. Arms Trade Treaty, Apr. 2, 2013, 52 *INTERNATIONAL LEGAL MATERIALS* 988 (2013). Article 7(4) makes it mandatory for States Parties to take into account the risk of “serious acts of gender-based violence or serious acts of violence against women and children” in their risk assessment processes for transferring conventional weapons, ammunition, parts, or components. The recognition that there is a link between the proliferation in small arms/transfers in arms and gender-based violence in war and peacetime is a step forward. However, in addition to the problem identified in the text above, there is also the risk that such a provision perpetuates the depiction of women solely as potential victims.

212. Peter Maurer, President of the International Committee of the Red Cross, Statement delivered at the First Conference of the States Parties to the Arms Trade Treaty (Aug. 24, 2015), <https://www.icrc.org/en/document/first-conference-states-parties-arms-trade-treaty-att>.

that the global arms trade has and continues to be dominated by the permanent members of the Security Council.²¹³

Such paradoxes are ones that anti-war feminists, in particular, struggle with,²¹⁴ leading them to repeatedly question the wisdom of engaging with existing frameworks that, by definition, appear to preclude transformation, making engagement futile, if not dangerous. After all, feminist scholarship has exposed how extant systems and structures of power, including international law itself, are founded on relations of domination and coercion that are reproduced through the construction of difference, sustained and normalized by false binaries and dualistic reasoning. This, in turn, begs the question as to whether feminist theory is condemned to perpetual disappointment and, relatedly, whether productive principled critique is only possible from the margins. The benefits of strategic cooperation—whether with like-minded States, the humanitarian community, or indeed with fellow feminists with different philosophical standpoints and priorities—may be significant, but anti-war feminists have long recognized that there are always costs to be reckoned with, even when collaborating with partners.²¹⁵

Feminist critical engagements with weapons and disarmament have provided valuable insights on the workings of patriarchy and militarism through gender regimes and of the complex ways in which gender functions to ascribe meaning to weapons beyond their material form which, in turn, fuel demand. In parallel, feminist scholars have expended considerable energy countering false narratives that equate weapons with security, not least the claim repetitively voiced by nuclear-weapon States that such weapons *contribute* to peace and security.²¹⁶ Although this work is finding its way into policy

213. This does not mean that critical feminist scholars oppose the Arms Trade Treaty but simply that feminist engagements with international law are never without problems. *See also* Maurer, *id.* The advantages of having such a treaty are enormous, not least since it creates opportunities to hold governments to account whether through advocacy or through litigation. That said, the terms of the treaty have been drafted in a manner that does not make litigation easy. *See, e.g., CAAT'S Legal Challenge*, CAMPAIGN AGAINST ARMS TRADE, <https://caat.org.uk/homepage/stop-arming-saudi-arabia/caats-legal-challenge/> (last visited May 21, 2021).

214. The paradox of law reform strategies is that in insisting on the inclusion of measures that take account of the specificity of women, sexual difference is reintroduced.

215. Carol Cohn, *Mainstreaming Gender in UN Security Policy: A Path to Political Transformation?* 12 (Boston Consortium on Gender, Security and Human Rights Working Paper No. 204 (2004)), https://genderandsecurity.org/sites/default/files/mainstreaming_gender_in_un_security_policy-a_path_to_political_transformation_0.pdf.

216. *See, for example*, the draft statement by the UK Secretary of State for Defence:

and law-making, there remains a deep reluctance not only among States but non-governmental partners and fellow academics²¹⁷ to fully embrace a gender analysis. Not to do so is, by default, to accept an eclipsed view and to forsake an opportunity to secure transformative *sustainable* change.

V. TRANSFORMATION

Did men say, "After you, sir" as to disarmament? If so, let us women say, "Follow me."

Gertrud Baer, 1924²¹⁸

In describing the present architecture of arms control law as “fragmented” and lamenting the fact that no “system for the regulation of armaments” as set forth in Article 26 of the UN Charter has been developed, mainstream international legal scholars have called for a “more coherent approach” to rejuvenate arms control and disarmament, including adopting a framework treaty on arms regulation with specific treaties, protocols, codes of conduct, and other implementation instruments providing necessary detail.²¹⁹ That

The Prime Minister, when replying to a letter from Mr Gorbachev about the Soviet proposals of January 1986, made clear the Government’s view that nuclear weapons at present make an essential contribution to preserving peace and stability and that East and West will continue to rely on them in their deterrent role for the foreseeable future.

George Younger, UK Secretary of State for Defence, Draft Statement on the Defence Estimates 1986, ¶ 212 (Mar. 26, 1986) (on file with The National Archives, Kew, CAB 129/221/4). This rationale normalizes and explains the dominance of the theory and practice of nuclear deterrence, which has been castigated by anti-war feminists for being nothing other than “a fiction.” Cohn & Ruddick, *supra* note 178, at 15–16. There is now a considerable body of academic literature unpacking the concept of nuclear deterrence. *See, e.g.*, Nigel, *supra* note 176, at 254–58; Stuart Casey-Maslen, *The Status of Nuclear Deterrence Under International Law in Light of the Treaty on the Prohibition of Nuclear Weapons*, 21 YEARBOOK OF INTERNATIONAL HUMANITARIAN LAW 23 (2018); Anne Harrington, *Power, Violence, and Nuclear Weapons*, 4 CRITICAL STUDIES ON SECURITY 91 (2016); GEORGE SCHULTZ & JAMES GOODBY, *THE WAR THAT MUST NEVER BE FOUGHT. DILEMMAS OF NUCLEAR DETERRENCE* (2015); MICHAEL QUINLAN, *THINKING ABOUT NUCLEAR WEAPONS: PRINCIPLES, PROBLEMS, PROSPECTS* (2009).

217. COMMITTEE ON ARMS CONTROL AND DISARMAMENT LAW, *supra* note 148, at 12.

218. 4TH CONGRESS REPORT, *supra* note 59, at 111.

219. COMMITTEE ON ARMS CONTROL AND DISARMAMENT LAW, *supra* note 148, at 12. *See also* Dieter Fleck, *Arms Control and Disarmament Law: Its Role in Addressing New Security Threats*, 52 MILITARY LAW AND THE LAW OF WAR REVIEW 61 (2013).

arms control and disarmament law is a fragmented body of law is hardly surprising.

Multilateral institutional bodies may have been accorded the right—or indeed the responsibility—to develop systems for the regulation of armaments, but States have repeatedly ensured that the right to develop, produce, retain, transfer, and use weapons are sovereign rights protected by international law. After all, weapons are the very means by which States have come into being. And it is this history that plays into and fosters the *assumption* that weapons are necessary to the continued survival of the State. This reasoning also serves to normalize the interweaving of the machinery of warfare into the very fabric of the State. These beliefs are further reinforced by the symbolic value of weapons as a defining feature of State sovereignty; weapons make States *fully* sovereign. Stripping a defeated enemy State of its weapons is a deeply symbolic gendered act: it deprives a State of full sovereignty, and, in that process, a relationship of domination and oppression is imposed.²²⁰ This same pattern of symbolism is reproduced at the inter-personal level, where the legitimate possession and use of weapons are often treated as a measure of being *fully* [hu]man.

Fragmentation aside, the field of disarmament and arms control is plagued by terminological ambiguity combined with technocratic detail.²²¹ Neither “disarmament” nor “arms control” are static terms. On a narrow reading disarmament is understood as the elimination of the means by which nations wage war, whereas, used as a generic term, it encompasses other measures including limitation, reduction, and non-proliferation. Likewise, arms control can be read narrowly within its Cold War context to denote measures to limit the nuclear arms race in contrast to the far more expansive contemporary usage to include agreement to freeze, limit, or abolish specific categories of weapons.²²² If disarmament and arms control are indeed fluid

220. In 1919, WILPF’s activists instinctively recognized that unilateral disarmament symbolized a stripping of sovereign rights and the imposition of a hierarchical relationship precluding the possibility of peace, which cannot be founded on relations of oppression.

221. STUART CASEY-MASLEN & TOBIAS VESTNER, A GUIDE TO INTERNATIONAL DISARMAMENT LAW 15 (2019).

222. Schelling and Halperin define arms control (in the context of Cold War bilateral efforts) as “all the forms of military cooperation between potential enemies in the interest of reducing the likelihood of war, its scope and violence if it occurs, and the political and economic costs of being prepared for it.” THOMAS SCHELLING & MORTON HALPERIN, STRATEGY AND ARMS CONTROL 2 (1961). Den Dekker on the other hand posits that

terms, one might also ask what precisely is envisaged by “general and complete disarmament under effective international control” in the contemporary setting. Typically, opacity is countered by repetition as though repetition equates to elucidation. Lack of legal specificity is attacked for being utopian yet concurrently claimed to further strategic interests. Technocratic detail diverts attention from what is silenced. But that, perhaps, is precisely the point.

Critical feminist international lawyers are less sanguine about the potential for international law, as currently interpreted and applied, to deliver radical change. Greater clarity and less fragmentation may indeed facilitate some progress, but if feminist engagements have illuminated anything, it is that until the drivers of weapons proliferation are disbanded, there is little chance of making real progress on “general and complete disarmament under effective international control” let alone “universal and total disarmament,” understood as a far more radical ambition that entails the wholesale dismantling of the machinery of war, public and private. In contrast to early feminist peace activists, who viewed the emerging regime of international law as *the* means by which an international order committed to peace, equality, and justice could be secured,²²³ a century of feminist engagements with international law has dampened expectations and injected doubt,²²⁴ and sometimes

arms control refers to unilateral measures, bilateral and multilateral agreements as well as informal regimes (“politically binding” documents, “soft” law) between States to limit or reduce certain categories of weapons or military operations in order to achieve stable military balances and thus diminish tensions and the possibility of large-scale armed conflict.

Guido den Dekker, *The Effectiveness of International Supervision in Arms Control Law*, 9 JOURNAL OF CONFLICT AND SECURITY LAW 315, 316 (2004).

223. See, in particular, resolutions adopted by WILPF during the first congress. 1915 CONGRESS REPORT, *supra* note 36.

224. See, for example, Kapur, who writes “in rereading/deconstructing the colonial legacies as well as the gender and sexual hierarchies that constitute human rights, [critical] scholarship has exposed how this project is incapable of meeting its promise of delivering freedom to the disenfranchised.” RATNA KAPUR, GENDER, ALTERITY AND HUMAN RIGHTS: FREEDOM IN A FISHBOWL 8 (2018). Anghie likewise asks “if . . . the colonial encounter, with all its exclusions and subordinations, shaped the very foundations of international law, then grave questions must arise as to whether and how it is possible for the post-colonial world to construct a new international law that is liberated from these colonial origins.” ANTONY ANGHIE, IMPERIALISM, SOVEREIGNTY AND THE MAKING OF INTERNATIONAL LAW 8 (2012).

remorse,²²⁵ in spite of the normative gains.²²⁶ The law's violence is all too visible, as is its role in consolidating a hierarchical international order founded on military strength through its greatest achievement to date, the UN Charter. The prospect of having an equal part in shaping a shared future promised by international law even though integrated into the text of the Charter remains elusive, most notably in fields coded "masculine." The very fact that women are still under-represented and often deliberately excluded from institutional fora concerned with weapons and disarmament decision-making, *forty years after entry into force of CEDAW*, is a catastrophic failure of State responsibility. That in itself says something.

The obligation on States to ensure women's equal representation and participation in political and public life, including within international arenas, has not been respected²²⁷ despite the insistence on the part of the CEDAW

225. In the context of nuclear weapons, it is difficult not to conclude that every treaty regime—apart from the Treaty on the Prohibition of Nuclear Weapons—instantiates and reinforces the exceptionalism of nuclear-weapon States.

226. While there has been progress over the decades, "the problem of challenging a form of power without accepting its own terms of reference and hence losing the battle before it has begun" remains a constant anxiety. CAROL SMART, *FEMINISM AND THE POWER OF LAW* 5 (1989).

227. Article 7 of CEDAW requires States parties,

to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

CEDAW, *supra* note 149, art. 7. For global statistics for January 2021, see *Facts and Figures: Women's Leadership and Political Participation*, UN WOMEN, <https://www.unwomen.org/en/what-we-do/leadership-and-political-participation/facts-and-figures> (last updated Jan. 15, 2021). See also Rachel B. Vogelstein & Alexandra Bro, *Women's Power Index*, CFR, <https://www.cfr.org/article/womens-power-index> (last updated Mar. 29, 2021). Article 8 of CEDAW requires States to take "all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations." For States not party to CEDAW, Articles 2 and 25 of the International Covenant on Civil and Political Rights apply. International Covenant on Civil and Political Rights arts. 2, 25, Dec. 16, 1966, 999 U.N.T.S. 171. Paragraph 134 of the Platform for Action also emphasizes that "the equal access and full participation of women in power structures and their full involvement in all efforts for the prevention and resolution of conflicts

Committee that Article 8 requires States to “ensure the presence of women at all levels and in all areas of international affairs . . . [and] they be included in economic and military matters, in both multilateral and bilateral diplomacy, and in official delegations to international and regional conferences.”²²⁸ Little has changed in the twenty-five years since the Committee first drew attention to the fact that women not only comprised a minority but were concentrated in lower-level positions within the UN system and at the regional level in economic, political, and military structures. The First Committee of the General Assembly has had only a single female chair in seventy-two sessions.²²⁹ That States are not taking all appropriate measures, including enactment of domestic legislation and temporary measures as set forth in Article 4(1) of CEDAW to dismantle structural and systemic gender discrimination, is all too evident. The Committee’s observations in 1997 that “many crucial decisions on global issues, such as peacemaking and conflict resolution, military expenditure and nuclear disarmament, development and the environment, foreign aid and economic restructuring, are taken with limited participation of women,”²³⁰ still apply in 2021.

Contemporary discussions on *why* women should be included are diversions that play into patriarchal privilege.²³¹ A century ago, women peace activists may have felt that justifying their right to a “seat at the disarmament

are essential for the maintenance and promotion of peace and security.” *Beijing Declaration and Platform for Action*, *supra* note 138, ¶ 134, at 57. The fact that the theme of 65th session of the UN’s Commission on the Status of Women was “women’s full and effective participation and decision-making in public life” is evidence of State failure. See *C5W65 (2021)*, UN WOMEN, <https://www.unwomen.org/en/csw/csw65-2021> (last visited May 21, 2021).

228. See UN Committee on the Elimination of Discrimination Against Women, General Recommendation No. 23: Political and Public Life ¶ 35 (1997), <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx> [hereinafter General Recommendation 23].

229. In 2010 the General Assembly adopted Resolution 65/69 on *Women, disarmament, non-proliferation and arms control*, calling on States to promote the “equitable representation of women in all decision-making processes with regard to matters related to disarmament, non-proliferation and arms control.” G.A. Res. 65/69, ¶ 1 (Jan. 13, 2011). Since then, the Assembly has adopted a further four resolutions.

230. General Recommendation No. 23, *supra* note 228, ¶ 39.

231. In particular, claims that emphasize women’s skills as “peace-builders” is a high-risk strategy that risks playing into essentialist narratives that are likely to be hugely counter-productive in the long term. Moreover, such strategies undermine the normative gains made. The predominant belief among earlier generations that women, by their nature, biology, and maternal instinct were more moral, nurturing, humane, and pacific than men and therefore adverse to war and the instruments of warfare may have once assisted in creating a foothold

table” was necessary, but the site of current scrutiny must be on why *States* are not taking all appropriate measures to ensure equal and meaningful participation. It is axiomatic that equal representation is meaningless without the power to shape and influence outcomes.²³² Nevertheless, without the commitment to transform the structures and systems of power that give rise to the harm in the first place, even the power to shape and influence is meaningless. Reform to increase women’s participation and the improvement of the social status of women within existing social structures without addressing the gender systems upon which political, economic, social, and cultural structures, institutions, and systems are founded will only reinforce systems of domination predicated on coercion and violence.²³³ The failure by States to adopt measures to eliminate the *causes* of sexism—or for that matter all other axes of difference such as racism and classism—is to perpetuate and normalize social orderings founded on structures and systems of domination in which weapons as a manifestation of that coercive power play a critical role, whether deployed or not. Meaningful progress on disarmament cannot be achieved without demystifying the symbolic value attached to all weapons and eliminating the gender regimes that create and sustain the demand for

into public activities, but such essentialist claims were soon discarded as damaging to securing equality more broadly.

232. Otto, *Holding up Half the Sky*, *supra* note 141, at 7.

233. Cynthia Cockburn, *Gender Relations as Causal in Militarization and War*, 12 INTERNATIONAL FEMINIST JOURNAL OF POLITICS 139 (2010).

them. Dislodging and reversing legal legacies establishing a gendered symbolic link between weapons, rights,²³⁴ citizenship,²³⁵ political power,²³⁶ and the cultural practices that knit together weapons and gender identities is hampered by the fact that existing international law provides little assistance, often limited by its own structure. For example, CEDAW's preamble may register the connections between "international peace and security," "general and complete disarmament including nuclear disarmament under strict and effective international control," and "equality," but the most that the convention can do is to engage with weapons and disarmament through the prism of non-discrimination. This is not to diminish the role played by the CEDAW Committee, which has pressed for the need for a gender perspective to be incorporated into weapons treaties.²³⁷ The Committee has repeatedly reminded States that conventional arms, especially small arms, including diverted arms from the legal trade, can have a direct or indirect effect on women as victims of conflict-related sexual violence, as victims of domestic

234. Historically, the duty to bear arms was intimately linked to the right to political participation, with the former obligation imposed exclusively on men in times of war.

235. Citizenship rights have often been founded on military service and the obligation to bear arms. For example, Rosika Schwimmer was denied US citizenship because she refused to answer affirmatively to question twenty-two of the Oath of Allegiance: "If necessary are you willing to take up arms in defense of this country?" Beth Wenger, *Radical Politics in a Reactionary Age: The Unmaking of Rosika Schwimmer, 1914-1930*, 2 JOURNAL OF WOMEN'S HISTORY 66, 86 (1990). According to Wenger, in their pleadings before the Supreme Court, the Department of Justice urged the Court to refuse citizenship because,

she does not believe in other people bearing arms in defense of the country . . . [and] does not believe in organized government as we understand it because organized government cannot exist without military defense. She would see the Constitution and the government of the U.S. destroyed by an enemy rather than have one citizen lift a finger in their defense. If every citizen believed as she does and acted as she will, we would have no constitution and no government.

Id. at 87–88.

236. Political power is nearly always linked directly to the bearing of arms and status as a belligerent. For example, Jane Addams, commenting on the decision of the United States to enter the war observed, "as head of a nation participating in the war, the President of the United States would have a seat at the Peace Table, but that if he remained the representative of a neutral country he could at best only 'call through a crack in the door.'" ADDAMS, PEACE AND BREAD, *supra* note 34, at 64.

237. Statement of the United Nations Committee on the Elimination of Discrimination against Women on the Need for a Gender Perspective in the Text of the Arms Trade Treaty (July 24, 2012), <https://www2.ohchr.org/english/bodies/cedaw/docs/statements/StatementGenderPerspective.pdf>.

violence, and also as protestors or actors in resistance movements.²³⁸ It has called attention to the fact that the proliferation of arms and ammunition perpetuate and facilitate gender-based violence and atrocities confronted by women in peace and conflict,²³⁹ and has reminded States of their responsibility to address the gendered impact of international transfers of arms, especially small and illicit arms, including through the implementation of the ATT.²⁴⁰

More recently, feminist international lawyers have turned to the right to peace as a potential site through which to further disarmament.²⁴¹ After all, disarmament has long been an integral component to conceptions of peace, even if understood as nothing other than the absence of war. To frame peace as an enforceable positive right—not simply as an inter-State obligation—would open the door to advancing disarmament and transformative change.²⁴² The view that disarmament is a core dimension of the right to peace was also shared by the UN Human Rights Council Advisory Committee, which was charged with producing a draft text on the Declaration on the

238. *Id. But see* U.N. Committee on the Elimination of Discrimination against Women, Concluding Observations on the Fourth and Fifth Periodic Reports of Eritrea, ¶¶ 8–9, U.N. Doc. CEDAW/C/ERI/CO/5 (Mar. 12, 2015); U.N. Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland, ¶¶ 16–17, U.N. Doc. CEDAW/C/CHE/CO/4-5 (Nov. 25, 2016); U.N. Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Seventh and Eighth Periodic Reports for France, ¶ 23, U.N. Doc. CEDAW/C/FRA/Co/7-8 (July 25, 2016).

239. Statement of the United Nations Committee on the Elimination of Discrimination against Women, *supra* note 237. U.N. Committee on the Elimination of Discrimination against Women, General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-conflict Situations, ¶ 29, U.N. Doc. CEDAW/C/GC/30 (Nov. 1, 2013) [hereinafter General Recommendation No. 30].

240. General Recommendation No. 30, *supra* note 239.

241. The right to peace is recognized by the Organization of African Unity. *See* African (Banjul) Charter on Human and Peoples' Rights art. 23, June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 INTERNATIONAL LAW MATERIALS 58 (1982) (entered into force Oct. 21, 1986). It is also recognized by the African Union. *See* Protocol to the African Charter on Human and Peoples' Right on the Rights of Women in Africa art. 10, July 1, 2003, (entered into force Nov. 25, 2005). In *XYZ v. Republic of Benin*, the African Court on Human and Peoples' Rights found Benin to have violated the claimant's right to peace and security. *See XYZ v. Republic of Benin*, Judgment, ¶ 137, App. No. 059/2019, Afr. Ct. Human and Peoples' Rights (Nov. 27, 2020).

242. Significantly, such a recognition would extend the range of available strategies through which to hold States responsible.

Right to Peace.²⁴³ As the Advisory Committee noted, “the right to full disarmament must be understood to be part of the right of peoples to live in peace. The right to disarmament should be a component of the right of peoples to peace as well as part of the right to international solidarity.”²⁴⁴ Yet, the final text adopted, reduced from an original fourteen operative articles to a mere four plus a saving clause, makes no reference to disarmament or human security.²⁴⁵ Adopted by the General Assembly in 2017, the Peace Declaration stands as a reminder of what has been redacted, silenced, and situated beyond scrutiny and State responsibility.²⁴⁶

The Peace Declaration is far from being the only instance where disarmament has been taken off the agenda of a multilateral normative initiative pertaining to peace.²⁴⁷ Attempts by anti-war feminists to include disarmament in the final text of Security Council Resolution 1325 on Women, Peace and Security was met with resistance, and the decision not to pursue the

243. U.N. Human Rights Council, *Progress Report of the Human Rights Council Advisory Committee on the Right of Peoples to Peace*, §§ IV(B), (C), U.N. Doc. A/HRC/17/39 (Apr. 1, 2011).

244. *Id.* ¶ 30 (see also the “proposed standards”).

245. Perhaps most regressively, with the insertion of the word “enjoy,” the right of peoples to peace was recast as a “right to enjoy peace.” See G.A. Res. 71/189, art. 1, Declaration on the Right to Peace (Feb. 2, 2017).

246. While the resolution rightly refers to racism, racial discrimination, and xenophobia as obstacles to peace, disappointingly, what was missing from the original text was any references to the harmful consequences of sexism, homophobia, misogyny, and patriarchy. Christine Chinkin, *Women and the Right to Peace*, LSE (Apr. 21, 2020), <https://blogs.lse.ac.uk/wps/2020/04/21/women-and-the-right-to-peace/>.

247. It is noteworthy that the UN’s most ambitious program for global change, the 2030 Sustainable Development Goals, is silent on disarmament. The effort on the part of the UN Office of Disarmament Affairs to link Goal 16, “to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” to its work only serves to bring to light that disarmament is missing from the agenda. Izumi Nakamitsu, UN High Representative for Disarmament Affairs, *Advancing Disarmament within the 2030 Agenda for Sustainable Development*, UN CHRONICLE (Aug. 2018), <https://www.un.org/en/chronicle/article/advancing-disarmament-within-2030-agenda-sustainable-development>. Likewise, the most that the Secretary-General can claim is

excessive spending on weapons drains resources for sustainable development. It is incompatible with creating stable, inclusive societies, strong institutions, effective governance and democracy, and a culture of respect for human rights. My initiative will have a strong basis also in the 2030 Agenda for Sustainable Development, the world’s blueprint for peace and prosperity on a healthy planet.

Antonio Guterres, *supra* note 1.

matter was a high price to pay for women's admission into the realms of Security Council decision-making.²⁴⁸ The deal struck was a regressive compromise that, in effect, reinscribed the gendered boundaries that anti-war feminists had fought against throughout the UN Decade for Women and had torn down, albeit partially, in Beijing.²⁴⁹

Twenty-five years after Beijing, the barriers have been re-erected. The political declaration by States to commemorate the anniversary is silent on disarmament,²⁵⁰ in stark contrast to the Secretary-General's report released three months earlier reviewing progress and noting how women's activism in the intervening period had "focused on the links between achieving gender equality and peace, reducing military expenditure, controlling the availability of armaments and promoting non-violent forms of conflict resolution."²⁵¹ While the report recognizes the significant contributions made by feminist activism to advance disarmament through treaties, it situates these achievements in the broader context and concludes:

the implementation of global commitments on disarmament has been stymied by increased military spending, the continued spread of small arms

248. As Otto laments:

Perhaps Resolution 1325's most instructive omission, when it comes to selectivity, is its failure to make any reference to general disarmament, a long-standing goal of women's peace movements . . . So, the price of the Council's endorsement of women's participation in peacemaking and peace-building, and its increased accessibility to the NGO Working Group, is the silencing of feminist critiques of militarism and the failure to recognise the "inextricable" link between gender equality and peace.

Dianne Otto, *The Exile of Inclusion: Reflections on Gender Issues in International Law Over the Last Decade*, 10 MELBOURNE JOURNAL OF INTERNATIONAL LAW 11, 21 (2009). Ironically, if that was indeed the "trade-off," it was a poor one given that women still continue to be excluded from peacemaking and peace-building. Cohn, *Mainstreaming Gender*, *supra* note 215.

249. Although some commentators have suggested that the Women, Peace and Security resolutions, including S.C. Res.1325 (Oct. 31, 2000), S.C. Res.1820 (June 19, 2008), S.C. Res.1888 (2009), S.C. Res.1889 (Sept. 30, 2009), S.C. Res.2106 (June 24, 2013), S.C. Res. 2122 (Oct. 18, 2013), and S.C. Res. 2467 (Apr. 23, 2019), speak to disarmament, the references contained therein concern the disarmament of non-State actors rather than States.

250. U.N. Commission on the Status of Women, Draft Resolution Submitted by the Chair of the Commission, Political Declaration on the Occasion of the Twenty-Fifth Anniversary of the Fourth World Conference on Women, U.N. Doc. E/CN.6/2020/L.1 (Mar. 2, 2020).

251. U.N. Secretary-General, *Review and Appraisal of the Implementation of the Beijing Declaration and Platform for Action and the Outcomes of the Twenty-third Special Session of the General Assembly*, ¶ 237, U.N. Doc. E/CN.6/2020/3 (Dec. 13, 2019).

and light weapons, the development of new weapons and growing tensions between rivals armed with nuclear weapons (S/2019/800). Global military spending nearly doubled from 1995 levels to \$1.82 trillion in 2018. . . . Such spending deprives national budgets of resources for social spending, which is critical to achieving gender equality. In about one third of countries for which data are available, government military spending is higher than health expenditure.²⁵²

The passage is a reminder of the chasm between legal undertakings and State practice. Perhaps more disturbing, it is a testament of how what should be entirely unreasonable has been made routine and banal. Two weeks after the release of the report, news began to emerge from Wuhan of cases of “viral pneumonia.” Calls by the Secretary-General for ceasefires went unheeded while, throughout 2020, States invested in the production of arms took steps to categorize those in the defense sector as “essential workers” and thus exempt from lockdown restrictions. As governments took measures (some more than others) to mitigate the effects of the virus, the vernacular of militarism took over.²⁵³

Where does this leave feminist efforts to advance universal disarmament in 2021 and beyond?

After four years of inter-State political instability, many welcomed the new Biden administration in Washington and the prospect of a return to normalcy, predictability, stability, and reason. Multilateralism and international law appear to be back on the agenda with signs that the administration is developing an “ambitious agenda to negotiate new arms control treaties” and its intention to review the “nuclear modernization portfolio” introduced by the previous administration that was expected to cost half a trillion dollars over the next decade alone.²⁵⁴ Biden’s decision to extend New START just days before the treaty was due to expire was read as going beyond the terms of the treaty, a symbolic gesture to re-engage in dialogue coming not long after the expiry of the Intermediate-Range Nuclear Forces Treaty amidst accusations of breaches and the collapse of the arms control system that had

252. *Id.*

253. Christine Chinkin & Madeleine Rees, *Our Male Leaders Declared War on the Pandemic. Our Response Must Match That*, LSE (May 11, 2020), <https://blogs.lse.ac.uk/wps/2020/05/11/our-male-leaders-declared-war-on-the-pandemic-our-response-must-match-that/>.

254. Bryan Bender, “*This is Going to be Quite a Show*”: Biden’s Arms Control Team Eyes Nuclear Policy Overhaul, POLITICO (Jan. 27, 2021), <https://www.politico.com/news/2021/01/27/biden-nuclear-weapons-policy-463335>.

existed since the Cold War.²⁵⁵ It is too early to tell whether the return to a more liberal agenda may entail the resurrection of an ambition articulated over a decade ago with a shift from the language of nuclear non-proliferation to reduction and disarmament.²⁵⁶ For the moment, at least, the priority appears to be on non-proliferation.²⁵⁷ However, what the return to a liberal

255. In February 2019 the United States suspended its observance of the Intermediate-Range Nuclear Forces Treaty, pointing to evidence that Russia was developing and deploying SSC-8/9M729 cruise missiles. The failure of countermeasures by the United States resulted in the United States formally withdrawing from the treaty in August, citing a “material breach” on the part of Russia. The collapse of the treaty marked a serious erosion of the system of nuclear arms control that had existed since end of Cold War and which had resulted in the complete elimination of U.S. and Russian nuclear and conventional ground-launched ballistic and cruise missiles with ranges between 500 and 5500 kilometers.

256. In a speech on April 5, 2009, President Obama declared:

So today, I state clearly and with conviction America’s commitment to seek the peace and security of a world without nuclear weapons. I’m not naive. This goal will not be reached quickly—perhaps not in my lifetime. It will take patience and persistence. . . . Now, let me describe to you the trajectory we need to be on. First, the United States will take concrete steps towards a world without nuclear weapons. To put an end to Cold War thinking, we will reduce the role of nuclear weapons in our national security strategy, and urge others to do the same. . . . To reduce our warheads and stockpiles, we will negotiate a new Strategic Arms Reduction Treaty with the Russians this year. . . . And this will set the stage for further cuts, and we will seek to include all nuclear weapons states in this endeavor. To achieve a global ban on nuclear testing, my administration will immediately and aggressively pursue U.S. ratification of the Comprehensive Test Ban Treaty. . . . And to cut off the building blocks needed for a bomb, the United States will seek a new treaty that verifiably ends the production of fissile materials intended for use in state nuclear weapons.

President Barack Obama, Remarks at Hradcany Square, Prague, Czech Republic (Apr. 5, 2009), <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-barack-obama-prague-delivered>.

257. Although in his first foreign policy statement on February 4, 2021, President Biden announced the end to “all American support for *offensive* operations in the war in Yemen, including relevant arms sales” he then added an important caveat: “At the same time, Saudi Arabia faces missile attacks, UAV strikes, and other threats from Iranian-supplied forces in multiple countries. We’re going to continue to support and help Saudi Arabia defend its sovereignty and its territorial integrity and its people.” President Joe Biden, *America’s Place in the World*, Remarks at the U.S. Department of State Headquarters (Feb. 4, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/04/remarks-by-president-biden-on-americas-place-in-the-world/> (emphasis added). In other words, as elaborated by Alex Ward, although it is likely (albeit not certain) that the United States will no longer provide Saudi Arabia with precision-guided munitions nor the UAE (a coalition partner) with F-35 fighters, the new administration has reserved the right to provide its allies with *defensive* arms and has kept the diplomatic door open while steps are taken to re-enter

agenda is likely to involve is the resumption of the program of advancing disarmament through incremental steps; in other words, a commitment to partial disarmament.²⁵⁸ Feminist support for partial measures has been equivocal. It has oscillated between a pragmatism (*something is surely better than nothing*) that is simultaneously plagued by a deep disquiet (rooted in the knowledge that partial measures conceal the very deferment of the ultimate goal) and an idealism that risks exclusion.²⁵⁹ Either way, the return to normalcy, to the *status quo ante*, is precisely what anti-war feminists fear the most. What went before led us precisely to where we are today: that *is* the catastrophe.²⁶⁰

As for the existing multilateral institutions, there is little hope that any meaningful progress on advancing general and complete disarmament will materialize in the foreseeable future. The view expressed by the Secretary-General that “since the beginning of the twenty-first century, multilateral disarmament institutions have remained in a state of stagnation. These bodies do not seem to function as an essential part of what should be the integral architecture of peace and security”²⁶¹ is shared by those within and outside the UN. The Conference on Disarmament—the *only* multilateral negotiating body for disarmament—has been paralyzed for at least the last twenty-four years. Its last major achievement—agreeing to the text of a comprehensive

the 2018 nuclear agreement with Iran, abandoned under the previous administration and strongly opposed by Saudi Arabia. Alex Ward, *Biden’s Announcement on Ending US Support for the War in Yemen, Explained*, VOX (Feb. 5, 2021), <https://www.vox.com/22268082/biden-yemen-war-saudi-state-speech>.

258. Every previous major multilateral arms control treaty has, in its preamble, claimed to represent one more step towards the ultimate goal of general and complete disarmament. See the preambles of the 1972 Biological Weapons Convention, 1977 Environmental Modification Convention; 1981 Certain Conventional Weapons Convention; 1992 Chemical Weapons Convention; 1996 Comprehensive Test-Ban Treaty, and 1996 African Nuclear-Weapons-Free Zone.

259. For example, at its 4th Congress in 1924, WILPF adopted a resolution stating:

Believing that work towards disarmament in different countries should not wait until general disarmament can be realized, though general disarmament is our goal, we welcome with profound satisfaction the suggestion of the President of the United States in regard to the calling of an International Conference to deal with limitation of armaments.

4TH CONGRESS REPORT, *supra* note 51, at 138.

260. WALTER BENJAMIN, *ILLUMINATIONS* 253–64 (Harry Zohn trans., Hannah Arendt ed., Schocken Books, 1969) (1955) (setting forth Benjamin’s theses on the philosophy of history).

261. U.N. OFFICE FOR DISARMAMENT AFFAIRS, *supra* note 2, at 61.

nuclear test ban treaty—has not come into force.²⁶² The wisdom of continued engagement with bodies such as the Conference on Disarmament has been a cause of constant angst for anti-war feminists. But, in 2015, a century after first demanding to be included within the multilateral institution spaces of disarmament, WILPF announced that it had decided to cease engaging with the Conference on Disarmament.²⁶³ The strategy is not without some risk given the shrinking spaces for political activism. But it also raises important questions for anti-war feminists about the value of operating within institutional spaces that are no longer fully committed to the ambitions upon which they were originally founded.

Amidst this somewhat bleak landscape a window of opportunity has been opened for anti-war feminists to pursue a transformative disarmament agenda and to do so from the site of power. In September 2020, in the run-up to the twentieth anniversary of the Women, Peace and Security Agenda, the Secretary-General released his annual report on Women, Peace and Security.²⁶⁴ Buried within section III on “Building and sustaining peace: linking the women and peace and security agenda to achieve the 2030 Agenda for Sustainable Development” is subsection A, entitled “Disarmament and arms control.” The section opens with the simple yet subversive assertion that disarmament is both vital to the achievement of the 2030 Sustainable Development Goals and “central to realizing the women and peace and security agenda.”²⁶⁵ The report continues:

Disarmament is core to what was originally envisioned for the women and peace and security agenda. It also features prominently in the section on women and armed conflict of the Beijing Declaration and Platform for Action, under the strategic objective and related commitments to reduce excessive military expenditures and control the availability of armaments.

262. Comprehensive Nuclear-Test-Ban Treaty, *opened for signature* Sept. 24, 1996, 35 INTERNATIONAL LEGAL MATERIALS 1439 (1996) (not yet in force) (adopted by the General Assembly as Resolution A/RES/50/245 (Sept. 10, 1996)).

263. See WILPF *Statement to the Conference on Disarmament on International Women's Day 2015*, REACHING CRITICAL WILL, <https://www.reachingcriticalwill.org/news/latest-news/9559-wilpf-statement-to-the-conference-on-disarmament-on-international-women-s-day-2015> (last visited May 21, 2021) (WILPF's statement on its decision to cease engaging with the Conference on Disarmament).

264. U.N. Secretary-General, *Women and Peace and Security*, U.N. Doc. S/2020/946 (Sept. 25, 2020).

265. *Id.* ¶ 45.

However, the connections between the disarmament agenda and the women and peace and security agenda are yet to be fully explored.²⁶⁶

Although the report falls short of referring explicitly to “general and complete disarmament,” the concept sits there in the references to the Beijing Declaration and in the reminder of the “fiftieth anniversary of the entry into force of the Treaty on the Non-Proliferation of Nuclear Weapons” and call for “a strong recommitment to the elimination of weapons of mass destruction.”²⁶⁷ Thus, while Resolution 1325 may have appeared to foreclose the possibility for debate on disarmament and thereby preclude it from being a potential site from which to advance disarmament, the Secretary-General’s report has re-situated it into the agenda where it has always belonged and under the first of the four pillars, conflict prevention. Whether anti-war feminists who have consistently maintained that disarmament is a precondition to both peace and security will take advantage of this “invitation” remains to be seen. The Secretary-General’s understanding of the scope of the Women, Peace and Security agenda certainly corresponds with the analysis laid out in the 2015 Global Study commissioned by the Security Council in preparation for the high-level review.²⁶⁸ Authored by Radhika Coomaraswamy, former Special Rapporteur on Violence Against Women, with the support of a seventeen-member high-level advisory group, the report took a more expansive view of prevention to include conflict prevention, in contradistinction to the more narrow interpretation of the prevention pillar adopted by States.²⁶⁹ Conflict prevention, according to the Global Study, required States to “address the underlying causes of war and violence. . . . They include efforts to address structural inequality and violence, promote human rights and human security, and engage in demilitarization, disarmament and reduction in spending on armaments.”²⁷⁰

In the six years since the release of the report, States have shown little appetite to embrace this view. Admittedly, the very construction of the Women, Peace and Security agenda functions as a legal obstacle to the extent

266. *Id.* ¶ 47.

267. *Id.* ¶ 50.

268. S.C. Res. 2122, ¶ 16 (Oct. 18, 2013). *See also* RADHIKA COOMARASWAMY, PREVENTING CONFLICT, TRANSFORMING JUSTICE, SECURING PEACE: A GLOBAL STUDY ON THE IMPLEMENTATION OF UNITED NATIONS SECURITY COUNCIL RESOLUTION 1325 (2015).

269. Over the years, the Security Council has focused its attention and activities under the prevention pillar to addressing sexual and gender-based violence.

270. COOMARASWAMY, *supra* note 268, at 204.

that it is grounded in international legal instruments that are concerned with regulating State conduct in respect of individuals and or groups. The operative paragraphs in Resolution 1325 cite key IHL instruments, refugee law, international human rights law, including CEDAW and the Convention on the Rights of the Child, and international criminal law; in other words, the Security Council has limited its engagement with “women” through their identity rather than through issues that shape their lives. While weapons determine the context within which lives are lived, they are cast by international law as a matter that falls within the exclusive concern of inter-State relations.

This need not remain the case. International law is a regime constructed by States. The dichotomized structure adopted is simply the reflection of political choices. In adopting 1325, the Security Council situated the Women, Peace and Security agenda squarely within international law in recalling the purposes and principles of the UN Charter and its own legal responsibility under the Charter for the maintenance of international peace and security.²⁷¹ 2020—which marked the 75th anniversary of the UN and the 20th anniversary of the Women, Peace and Security agenda—should have provided States with an opportunity to critically reflect on their record of achievements in light of the stated ambition of the Charter and to recognize that little has been achieved in advancing universal and complete disarmament.

In his *Agenda for Disarmament* report, the Secretary-General concludes with a quote from his predecessor, Dag Hammarskjöld, who cautioned that “in this field, as we well know, a standstill does not exist; if you do not go forward, you do go backward.” If anything can be gleaned from a century of feminist peace activism, it is that accepting the status quo has never been an option. Today, the challenges confronted seem more daunting than ever, whether in the shape of meaningful participation or countering cultures of militarism²⁷² and patriarchy that sustain the demand for weapons and that, in turn, serve to mold our identities and our communities. Critical feminists remain all too aware of the need to constantly draw attention to the insidious language of militarism and of gender relentlessly invoked by political figures in the public sphere²⁷³ and popular culture if those chains are to be broken. Exposing myths, false narratives (“*every government defends its participation in the*

271. S.C. Res. 1325, pmb. (Oct. 31, 2000).

272. Dan Sabbagh, *Brexit “Can Enhance UK’s Lethality,” says Defence Secretary*, GUARDIAN (Feb. 10, 2019), <https://www.theguardian.com/politics/2019/feb/11/brexit-uk-military-defence-gavin-williamson>.

273. Chinkin & Rees, *supra* note 253.

*arms race as necessary to guard its national security. But this is an illusion*²⁷⁴) and distinctions that are repeatedly recited as though the difference between the two is self-evident (*what distinguishes offensive from defensive weapons?*) are undertakings that demand constant commitment. None of this work is new. Feminist strategies will alter over time, as does thinking. But what has remained constant is the belief that a sustainable peace cannot be attained without universal and total disarmament, which can only be secured through fundamental transformative change in the existing order at inter-personal, intra-State, and inter-State levels.

VI. EPILOGUE

De Martens was right to describe the Utopians as “the most dangerous enemies of the progress of international law.” What he instinctively knew was that a world in which international law delivered universal disarmament, eternal peace, and the abolition of war was one in which power—including the power to make and shape international law—no longer rested in the hands of a privileged few. It would be a world radically transformed and one in which power was equally distributed, among States and among people.

274. MYRDAL, *supra* note 119, at 7.