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BI-STRATEGIC COMMAND DIRECTIVE 040-001 (PUBLIC VERSION)

INTEGRATING GENDER PERSPECTIVE INTO THE NATO COMMAND STRUCTURE

DATE: 20 October 2021

REFERENCES: See Annex F.

1. **Status.** This directive supersedes the Bi-Strategic Command Directive (Bi-SCD) 040-001 dated 16 May 2017 and is to be used with immediate effect.
2. **Purpose.** The purpose of this directive is to provide direction and guidance on implementing the United Nations Security Council Resolution (UNSCR) 1325 and related Resolutions on Women, Peace and Security (WPS) in accordance with NATO political and military direction through the integration of gender perspective.
3. **Applicability.** This directive is applicable to all headquarters and units of both ACO and ACT. NATO Force Structure Commands and NATO Allies and Partners are strongly encouraged to associate themselves with this directive. The basic principles of UNSCR 1325 and related Resolutions are equally applicable to the activities of static headquarters and NATO missions, operations and council-mandated activities. This directive is to be considered in all ACO and ACT work strands.
4. **Publication Updates.** Updates are authorized when approved by Chief of Staff (COS) SHAPE and COS HQ SACT. An assessment for a revision is to be carried out not later than two years after the release date of this publication
5. **Proponent.** The proponents for this directive are SHAPE Gender advisor (GENAD) and ACT GENAD.

FOR THE SUPREME ALLIED COMMANDERS, EUROPE AND TRANSFORMATION:

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- D. Staff Implementation Responsibilities.
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CHAPTER 1 - INTRODUCTION

1-1. **Aim.** The aim of this directive is twofold:

- a. Firstly, to translate political direction and guidance into tangible actions and activities in order to ensure the NATO Command Structure (NCS) operationalises the United Nations Security Council Resolution (UNSCR) 1325 (Reference A) and related Resolutions (References B to L), and effectively implements the NATO/EAPC Policy and the Action Plan on Women, Peace and Security (WPS) (References M and N).
- b. Secondly, to ensure the NCS complies with applicable NATO guidelines¹ and policies related to the prevention and response to Conflict-Related Sexual Violence (CRSV) (Reference O) and Sexual Exploitation and Abuse (SEA) (Reference P).

1-2. **Background.** SHAPE and HQ SACT drafted the first Bi-SC Guidelines on the implementation of UNSCR 1325 on Women, Peace and Security, to include Standards of Behaviour to be complied with by NATO-led forces (Reference W), in 2008. This led to the first issuance of the first Bi-SC Directive 040-001 on 2 September 2009. The Directive was revised in 2012 to implement additionally released UNSCRs on WPS. Since the publication of the last revision in May 2017, NATO's approach to operationalising UNSCR 1325 and related Resolutions has evolved as a discipline: Gender in Military Operations (GMO). This is the fourth iteration of the Bi-SC Directive 040-001.

1-3. **Rationale**

- a. Men and women are both part of a gendered societal construct and therefore bring unique and different perspectives to security challenges facing the Alliance during peacetime, crisis, and armed conflict. As such the effective representation and participation of both women and men is critical to the success of the Alliance and its partners and is fundamental to lasting peace, stability and security.
- b. Furthermore, it must be recognised that women, men, girls and boys have influence on and are impacted differently by armed conflict due to their gender. In particular, women and girls are often disproportionately affected by the armed conflict. Unless gender-based similarities and differences are addressed, conflict prevention, conflict-resolution, post-conflict reconstruction and peacebuilding are likely to be negatively impacted. This includes legislation, policies and programmes at all levels in order to ensure that the concerns and experiences of women and men are taken into account in all political, economic and societal spheres. This should lead to ensuring equal opportunities to women and men.
- c. The integration of gender perspective and the WPS mandate is an essential component of NATO's common values of human rights, individual liberty, democracy, and obligations under the Charter of the United Nations. NATO and its Allies and partner nations are committed to integrate gender perspective throughout the three core tasks of the Alliance (collective defence, crisis management and cooperative

¹ To be noted that 2015 Military Guidelines will have to be reviewed and adapted to take into account the latest approved policies on SEA and CRSV and the use of agreed and clear terminology (see chapter V).

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security) and consider it essential to ensure an agile, resilient and responsive NATO.

d. Collective effort in gender mainstreaming and systematic integration of gender perspective, across the full spectrum of military activities within the NCS, during peacetime, crisis and in armed conflict, increase Alliance effectiveness through all three components of NATO's fighting power (moral, conceptual and physical). This approach is leveraging the full human capacity, and allows the Alliance to enhance the tactical, operational and strategic effect when delivering NATO's core tasks.

1-4. **NATO definitions related to gender**

The following are NATO's agreed definitions²:

a. **Gender** refers to the social differences and relations between women and men, which are learned through socialization and determine a person's position and value in a given context.

b. **Gender analysis**³ is the systematic gathering and examination of information on gender differences and on social relations between men and women in order to identify and understand inequalities based on gender.

c. **Gender perspective** is the consideration of gender-based differences between women and men as reflected in their social roles and interactions, in the distribution of power and the access to resources.

d. **Gender mainstreaming** is defined as a strategy used to achieve gender equality by assessing the implications for women and men of any planned action, in all areas and at all levels, in order to assure that the concerns and experiences of both sexes are taken into account.

1-5. **Gender mainstreaming: integration, inclusiveness and integrity**

a. In line with the NATO/EAPC Policy and Action Plan on WPS (References M and N), this directive recognizes the need to eliminate barriers for the active and meaningful participation of women internally within the Alliance as well as externally where NATO conducts operations and missions. It also promotes a safe and secure environment for the staff members and the entire population.

b. **Gender equality** refers to the equal rights, responsibilities, opportunities and access for men, women, boys and girls. Equality does not mean that women and men will become the same, but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born female or male. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognizing the diversity of different groups of women and men. Gender equality is not a women's "issue", it concerns men and men's roles as well as women and women's roles. Gender mainstreaming does not focus solely on

² NATO Term, the official NATO Terminology Database

³ For detailed information, consult the Gender Analysis Tool (Annex E to the ACO Gender Functional Planning Guide).

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women, but recognises women's disadvantaged position in various communities.

The NATO/EAPC Policy on Women, Peace and Security (WPS) recognizes that the **integration** of gender perspective and the participation of women in all aspects of NATO's work is an essential factor in the success of peace and security. The Policy builds on a framework of:

- (1) **Integration** through ensuring that gender equality is considered as an integral part of NATO policies, programmes and projects guided by effective gender mainstreaming practices;
- (2) **Inclusiveness** in promoting an increased representation of women across NATO and in national forces to enhance operational effectiveness and success; and
- (3) **Integrity** through enhancing accountability with the intent to increase awareness and to implement the WPS agenda in accordance with international frameworks. NATO, Allies and partner nations are committed to integrating the Policy⁴ throughout the civilian and military structures.

c. NATO, allies and partner nations are committed to implement the NATO/EAPC Policy on WPS throughout civilian and military structures. Troop Contributing Nations (TCNs), responding to Requests to Nations during Global Force Generation Conferences in Crisis Establishment (CE)/Peacetime Establishment (PE) post-allocation conferences, should address gender-related requirements (i.e. Gender Advisors, Gender Focal Points, composition of engagement teams, etc.) and call for furthering the awareness of gender perspective in NATO operations, missions and activities. They should also be encouraged to remain aware of the positive effect that including both men and women in appropriate proportion has within the organisation. Identifying these human resources and capacities will complement the mission and increase its responsiveness while ensuring that the obligations under UNSCR 1325 and related Resolutions are met. Promoting access and opportunities to women in all decision-making processes related to peace, security and stability, including conflict resolution is a key component for the effectiveness and legitimacy of NATO and NATO-led forces.

d. **Gender-inclusive language**⁵ means "speaking and writing in a way that does not discriminate against a particular sex and does not perpetuate gender stereotypes". Its proactive and consistent use is imperative for furthering gender equality in the workplace and for creating an inclusive working environment for all staff members. Using gender-inclusive language does not diminish the need to distinguish or highlight the differences between women and men and their different needs, when and as appropriate (e.g. sex-disaggregated data), to achieve gender

⁴ More specifically, the "Integrity" pillar builds on the implementation of the NATO policies to prevent and respond to CRSV and SEA.

⁵ This definition and other relevant gendered terminology can be found in the NATO Gender-Inclusive Language Manual, PO(2020)0156, accessible on the NATO public webpage in both of NATO's official languages.

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equality. Using gender-inclusive language can:

- (1) Challenge unconscious bias and assumptions about gender roles in society;
- (2) Lay the foundation for greater gender equality; and
- (3) Raise awareness of how language affects our behaviours and attitudes.

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CHAPTER 2 – GENDER ADVISORY STRUCTURE

2-1. Integrating Gender Perspective – Roles and Responsibilities

- a. Commanders, within their power, maintain overall responsibility for the implementation of this Directive.
- b. The integration of gender perspective and gender mainstreaming are leadership responsibilities and an enterprise wide effort that require a systemic approach from all staff functions. Thus, it requires all staff in the NCS to pro-actively engage and to consider it across all lines of effort. As Gender in Military Operations (GMO) is a cross-functional military discipline, all staff should have a basic understanding of it.
- c. NATO's military structure has an embedded Gender Advisory Structure [Gender Advisors (GENADs) and Gender Focal Points (GFPs)] across all levels that supports gender mainstreaming and the integration of gender perspective, in all lines of effort.

2-2. **Gender Advisors.** The GENAD advises the command group on operationalising NATO WPS Agenda and supports comprehensive integration of gender perspective and gender mainstreaming. These activities include, but are not limited to, peacetime, operations/missions, crisis/conflict analysis, policy, concept, capability, doctrine, procedure, exercises and education and training. The GENAD reports to the Commander and where it is possible the GENAD Office is organisationally placed within the Command Group (CG). The tasks, roles and responsibilities of GENADs are further described in Annex B.

2-3. **Gender Focal Points.** GFPs are nominated personnel with dual-hatted roles in HQs, Divisions/Directorates, Branches and Offices. GFPs are to support integration of gender perspective and facilitate gender mainstreaming in their functional area. They report through the chain of command and maintain a functional dialogue with GENAD in order to ensure the coherent and consistent integration of gender perspective throughout the NCS and its activities. As such, GFPs support and enable a professional and functional network throughout the NATO Command Structure. The GFPs roles and responsibilities are further described in Annex B.

2-4. **Gender Advisory Community of Interest.** Figure A provides a presentation of the Gender Advisory Community of Interest (COI) and identifies core stakeholders within the NATO military and civilian structures who support the integration of gender perspective and the implementation of NATO WPS Agenda and particularly UNSCR 1325 and related Resolutions throughout the Alliance. As outlined in the Figure, the functional offices and/or positions that support NATO's efforts in integrating gender perspective in military operations are the GENAD Offices and the WPS Office. The GMO discipline is supported by a sub-committee of the Military Committee (MC), the NATO Committee on Gender Perspectives (NCGP) and by the NATO Department Head (DH) on Gender, the Nordic Centre for Gender in Military Operations (NCGM). Formal tasking to the NCS follows the appropriate chain of command.

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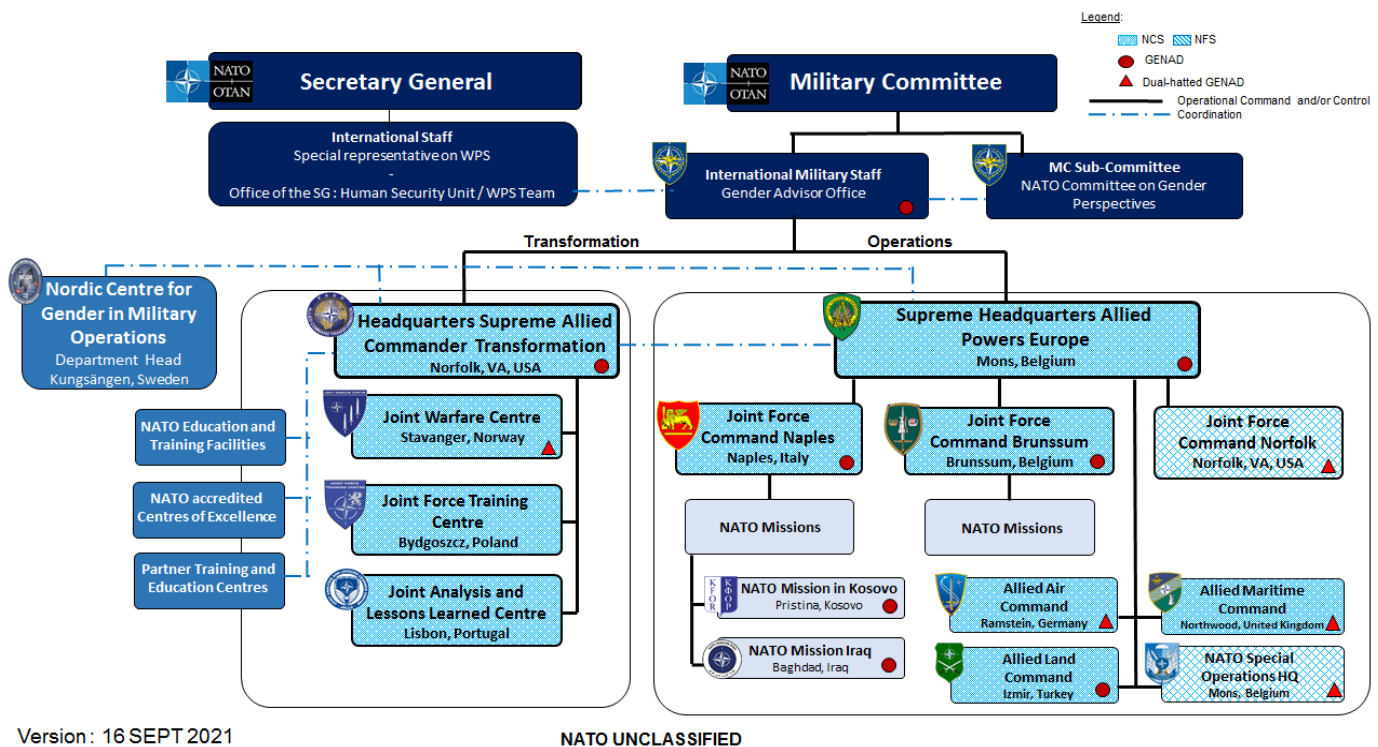


Figure 1: NATO Gender COI and Advisory Structure.

2-5. NATO Headquarters

a. The NATO Secretary General's Special Representative for Women, Peace and Security (WPS) serves as the high-level focal point for NATO's work in this domain. NATO's approach to the WPS agenda is framed around the principles of integration, inclusiveness and integrity and implemented through the NATO/EAPC Policy and Action Plan on WPS.

b. The International Military Staff Office of the Gender Advisor (IMS GENAD Office) reports directly to the Director General of the International Military Staff and provides information and advice on gender perspective including the effective implementation of UNSCR 1325 and related Resolutions. The IMS GENAD Office also serves as the Secretariat for the NCGP.

c. The NCGP supports GMO discipline and promotes gender mainstreaming as a strategy for making the concerns and experiences of both women and men an integral dimension of the design, implementation, monitoring and evaluation of policies, programmes and military operations. The NCGP is managed by an Executive Committee that consists of five chairs from NATO Member Nations. After the NCGP Annual Conference, recommendations proposed by the national delegates are presented to the MC for further action.

2-6. **NATO Bi-Strategic Commands.** ACT and ACO command groups and staff are supported by a Gender Advisory Structure (GENADs and GFPs) in place at all levels, including in NATO operations.

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a. The ACO Office of the GENAD at SHAPE and GENADs at ACO's subordinate commands at operational and tactical levels, are responsible for providing comprehensive advice, guidance and support to the Commander and the Command Group in order to integrate gender perspective, gender mainstreaming and NATO WPS Agenda into every phase of operations/mission planning processes, as well as into the conduct of operations, exercises and training, and all other processes and procedures within SHAPE, ACO and Bi-SC wide.

b. The ACT Office of the GENAD provides ACT command-wide advice to senior leaders. It works to establish and maintain cross-functional coordination, both Bi-SC and within HQ SACT and subordinate commands. ACT manages the Global Programming process and facilitates outreach with education and training partners. The Office also collaborates with NATO accredited Centres of Excellence (COEs) to support gender mainstreaming and integration of gender perspective into their activities and products.

2-7. **NATO Department Head.** As the DH⁶ and expert centre for GMO, NCGM works within NATO's Global Programming governance and policy structure to ensure NATO's gender related training and education requirements are holistically managed across the Alliance. NCGM assists in integrating gender perspective into the planning, execution and evaluation phases of operations through education and training, integrating gender into military exercises, cooperation through a network of stakeholders and institutions and by advising on policy and doctrine development.

⁶ Consistent with MC 458/3 and as approved in MCM-0024-2014, dated 14 July 2014 (NATO Education and Training Plan for Gender in Military Operations).

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CHAPTER 3 – IMPLEMENTATION IN WARFARE DEVELOPMENT

3-1. **General.** While the fundamental nature of war endures, the increasing complexity of the operating environment and its inter-relation with the human dimension requires an in-depth understanding of the strategic paths of relevant actors and the trends that influence the dynamic character of warfare. This is critical in understanding how new and more advanced patterns of warfare affect whole populations as well as how women, men, girls and boys can differently impact and be impacted by future operations. The ambition is to focus on thinking, organising, and acting differently, to create advantage and success in the future operating environment. The 2021 NATO Warfare Capstone Concept (NWCC) recognises this and provides a 20-year vision for the development of the Allies' Military Instrument of Power (MloP), based on the need to be prepared and agile to support NATO's three core tasks (Reference Y).

3-2. **Aim.** This chapter aims to provide guidance on how to apply a gender perspective across any activity undertaken by the Bi-SCs that contributes to NATO's Warfare Development effort as described by the NWCC and operationalised through the Warfare Development Agenda (WDA) (Reference Z).

3-3. **Rationale.** Applying a gender perspective and ensuring gender mainstreaming will be critical to both delivering today's MloP and sustain the vision of the 2040 MloP. A gender lens should always be applied in the cognitive, virtual and physical dimensions of the NATO frameworks, recognising the impact across the human, physical and information environments. The Alliance's planning and development across all Lines of Effort (LoE) requires a comprehensive approach that takes into consideration gender aspects in the modernisation of military structures and capabilities. Integrating a gender perspective contributes to the understanding and application of fighting power, as an integral part of both a human-centric and a comprehensive approach.

3-4. Gender Perspective and Warfare Development

a. The NWCC explicitly acknowledges the requirement to leverage gender in order to:

- (1) Develop people able to think and act across domains in the future operating environment;
- (2) Develop cross domain leaders through a culture of cross domain thinking and;
- (3) Act as a force multiplier when developing the right people with the right skills as part of investing in the Alliance's Human Capital to cope with speed, complexity and data centric future operating environment.

b. Implicit in this acknowledgment is the necessity to apply gender perspective across all LoEs that contribute to Warfare Development. There are key areas of work (including but not limited to education and individual training, strategy and policy, capability development [especially requirements], doctrine, concept development, modelling and simulation, and lessons learned) where gender perspective should be integrated, particularly when developing and implementing NATO's MloP. The

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rationale for integrating gender perspective in these key areas are:

- (1) **Strategic Awareness.** Warfare development is predicated on strategic awareness. Areas such as innovation, emergent and disruptive technologies (such as artificial intelligence and big data), social trends, climate change and environmental challenges should be considered through a gender lens in order to have a more comprehensive understanding of the security environment.
- (2) **Strategy and Policy.** Integrating gender perspective in strategy and policy augments the SC's ability to deliver military advice and drive interoperability and operational effectiveness across the Alliance.
- (3) **Capability.** Analysing how gender as a capability enhancer can make the Alliance more effective and fit for purpose and further work to support gender as a capability. Accordingly, the SCs are to take into account the integration of gender perspective in all Capability Programmes Plans.
- (4) **Doctrine.** The SCs contribute to the integration of gender perspective during the development and review of allied joint doctrines. HQ SACT facilitates this through the systematic doctrine review and creation process.
- (5) **Concept Development & Experimentation (CD&E).** NATO's Warfare Development is supported by CD&E through the structured development of innovative ideas. During the CD&E process, Subject Matter Experts (SMEs) should both optimise the Alliance's Human Capital and consider how the entire population may be affected by the concept (for example the Operating Concept for Multi Domain Operations in the Urban Environment). Gender in military operations can be further explored and integrated through the experimentation process during NATO exercises.
- (6) **Modelling and Simulation.** This needs to be representative of current and potential situations. A gender perspective needs to be applied across the process of developing and conducting modelling and simulation in addition to analysing the outputs.
- (7) **Lessons Identified and Lessons Learned.** Lessons identified and lessons learned shape future actions and may increase NATO's effectiveness in missions and operations. Therefore, it is important to identify and learn lessons related to gender perspective in military operations. This can be achieved through the development of adequate collection protocols and filter mechanisms with the support of gender Subject Matter Experts (SMEs) to help identify and analyse gender and WPS-related information. To achieve the adequate results, the NATO Lessons Learned Portal should be used, following the NATO Lessons Learned Process.

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CHAPTER 4 – GENDER PERSPECTIVE IN MILITARY OPERATIONS

4-1. General

a. The impact of conflict and war is often different for men, women, girls and boys. Prevention and recognition of root causes of violence including gender inequalities are integral to establishing stability and security. The inclusion of gender perspective and gender analysis into conflict analysis and military planning secures the ability to respond to these differences in a more nuanced and effective way and provides an increased understanding of conflict factors, actors and dynamics. Consequently, in order to achieve mission success and to reach the desired effects and end state, NATO must develop a comprehensive understanding of its operating environment by integrating gender perspective.

b. When considering contributing to NATO operations, missions and Council-mandated activities, requests to Nations will include a call for furthering the awareness of gender perspective, while the assignment process follows national regulations of the Troop Contributing Nations (TCNs). TCNs are encouraged to consider the positive effect that a more gender balanced force structure has within the organisation.

4.2. **Aim.** The three core tasks of the Alliance (collective defence, cooperative security and crisis management) are to be analysed, planned, executed and assessed with an integrated gender perspective. This is a responsibility across all levels and phases and requires a comprehensive approach. The linkage between external and internal integration of gender perspective must be emphasised and recognised as a matter of credibility. Internal aspects including measures to remove barriers for the active participation of women in relation to the execution of operations and missions must be highlighted.

4-3. **Cross functional staff cooperation on gender perspective integration.** Within NATO, all personnel have responsibility to integrate gender perspective. Although the overall responsibility rests within respective commanders, the effective integration is only possible when GENAD, GFPs and all staff work together.

4-4. **Gender Perspective and the NATO Crisis Response Process.** Gender perspective needs to be considered throughout all six phases of the NATO Crisis Response Process⁷ (NCRP). To that end, GENADs and GFPs at strategic, operational and tactical level, need to be involved in all the phases of the Operations Planning Process. Close cooperation and interaction between the planning group and relevant gender SMEs (GENAD and GFPs) are essential.

a. Phase 1 Indications and Warning (I&W).

Early identification of a crisis that is or may become relevant to NATO is key to success. Gender perspective must be included in early warning as it supports the identification of a potential emerging crisis or changes in stability (horizon scanning). By including Gender Perspective in this phase, the staff will be able to recognize

⁷NATO Crisis Response System Manual (Indications and Warning; Assessment; Response Options Development; Planning; Execution; Transition).

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trends and issues that might reflect a deteriorating security situation and manifest through different behaviors of men and women, and thus contribute to the development of a broad understanding of the environment. For this reason, the GENAD' and GFPS' main focus during phase 1 will be on the development of gendered early warning indicators as part of the ACO I&W construct. The development of early warning indicators includes gathering of sex and age disaggregated data (SADD)⁸.

b. Phase 2 Assessment.

During the Assessment phase, NATO will try to develop a fundamental understanding of the nature of the crisis and the engagement space, including its key PMESII⁹ aspects. This PMESII assessment¹⁰ needs to be complemented by a gender analysis. GENADs and GFPS at different levels are to develop, and keep updated throughout possible consecutive phases of the operations, the gender analysis. The collection of SADD is critical to conduct a comprehensive gender analysis¹¹.

c. Phase 3 Development of Response Options.

At the start of the Phase 3, GENADs and GFPS should, through phases 1 and 2, have developed a sufficient understanding of the engagement space and related gender aspects to contribute to the cross-functional planning effort with gender recommendations and advice on the different possible Response Options.

d. Phase 4 Planning.

During this phase, the OPLAN will be developed. GENAD, iccw GFPS, will develop the Gender perspective Annex RR (and relevant appendices¹²) to the OPLAN in line with the Commanders' intent. In addition, staff and GFPS iccw GENAD, will ensure that the gender perspective is integrated, as applicable in all functional domains¹³. A special attention will be paid to the development of the Combined Joint Statement of Requirements, making sure that the proposed GENAD/GFP structure is robust, that capabilities that require a mixed composition are identified and addressed, and encouraging Troup Contributing Nations to consider the positive effect of a more gender balanced force structure.

e. Phase 5 Execution.

During the Execution phase, the operations' GENAD will advise the Commander on the actions that can/need to be undertaken to support the execution of the Gender perspective Annex to the OPLAN. The operations' GENAD will continuously monitor

⁸ For the purposes of this Directive, SADD is defined as separately collected and cross-classified data based on sex and age to highlight findings significant for women, men, girls and boys of certain ages.

⁹ PMESII domains: Political, Military, Economic, Social, Infrastructure, Information.

¹⁰ The NCGM developed Military Gender Analysis Tool (MGAT) which follows the PMESII construct and is a useful tool to support the staff.

¹¹ Sex-disaggregated data manual, AC/340(EAPC)N(2021)0004, dated 10 May 2021.

¹² Appendices to the Annex RR should include at least the provisions for the prevention of, and response to, CRSV and SEA, with risk assessments and mitigation strategies.

¹³ See annex D.

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and assess gender relevant aspects of the execution of the operation, and report through the chain of command by sending the monthly Gender Reports and through the integration of gender aspects in the Periodic Mission Reviews. These reports will be exploited at tactical, operational and strategic level to inform leadership, and could inform an effective decision making and possible crisis review.

f. Phase 6 Transition.

The purpose of the Transition phase is the coordination of the transition and termination of the military operation, this involves the handover of responsibility for gender actions or projects to the appropriate authorities or organisations (Host Nation, International Organisations, NGOs...) as per the OPLAN.

4-5. Gender Perspective in Operations Planning. Integration of gender perspective enables operations planning at all levels to better understand the political, societal, cultural and structural processes, context and expected effects which impact how military operations and missions are conducted. By looking at the different security needs, risks and experiences of the entire population (women, men, girls and boys), the understanding of the operating environment is enhanced. Integration of gender perspective into the Operations Planning Process is conducted at all levels and in close coordination across the chain of command. The ACO Comprehensive Operations Planning Directive (COPD) (Reference R) details each of the stages in the planning process. The primary working tool for implementation of the gender perspective into the operations planning at the different levels is the ACO Gender Functional Planning Guide (FPG).

Gender perspective should be integrated in the planning, implementation, monitoring, assessment and evaluation of all NATO-led operations. Some of the focus areas incorporating gender perspective that should be considered during the planning process may include, but are not limited to:

- a. Analysing dynamics in gender relations and roles including the changes caused by the conflict and/or military operations.
- b. Considering how NATO can contribute to gender equality and women's empowerment in the affected nations before, during and after the conflict.
- c. Considering how NATO can support the delivery of equal and appropriate security for women, men, girls and boys. This assessment should also include populations in vulnerable situations during conflict, which includes the elderly, statelessness, pregnant women and the disabled.
- d. Considering all necessary measures to prevent and respond to any instances of SEA and CRSV, including recognition of the clear inter-relationship between conflict-related gender based violence, human trafficking, refugee movements, smuggling and the NATO WPS agenda¹⁴.

¹⁴ The NATO Policy on Combatting the Trafficking of Human Beings [EAPC(C)D(2004)0029] provides guidance relevant to those under NATO Command and Control. More information on the good practices and new trends related to the different types of human trafficking are found within AC/322-N(2021)0030, Report on Combatting Trafficking in Human Beings: Good practices and new trends, dated 9 April 2021.

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- e. Ensuring NATO support to any Disarmament, Demobilisation and Reintegration (DDR) does not discriminate against any gender and is conducted in line with the principles of gender equality.
- f. Analysing the different roles that women, men, girls and boys serve in all parties to the conflict, including as supporters, facilitators, enablers or perpetrators of acts of violence or terrorism¹⁵.
- g. Gender mainstreaming in Small Arms and Light Weapons¹⁶ (SALW) control as part of projecting stability through defence-capacity building.
- h. Ensuring gender perspective is addressed in NATO's support to the peace process including conflict resolution, ceasefire agreements and women's participation is actively supported and facilitated.
- i. Ensuring gender perspective is addressed in the planning and conduct of Security Force Assistance (SFA). Linkages between SFA activities and NATO's cross-cutting topics should be assessed in a holistic approach.
- j. Ensuring any NATO support to election activities includes gender perspective, including the awareness of increased risk of gender-based and sexual violence as a means of political repression.
- k. Considering gender in internal planning:
 - (1) Force composition.
 - (2) Engagement capacity/capability.
 - (3) Communications.
 - (4) Logistics/equipment.
 - (5) Standards of Behaviour and/or Codes of Conduct.

4-6. **Monitoring, assessment and reporting.** Monitoring, assessment and reporting are key elements to ensure efficiency and effectiveness in operations. These processes will

¹⁵ Refer to the NATO Food for Thought Paper on Gender and Terrorism and the Fight Against Terrorism Action Plan for more information.

The UN S/Res/2178(2014) drew specific attention to the importance and participation and empowerment of women, including in the development of counter terrorism (CT) PVE/CVE strategies. Subsequently, UNSCR 2250(2015) urged UN Member States to ensure participation of women and women's organizations in developing strategies to counter-terrorism and violent extremism. In terms of this perspective, the NATO/EAPC Policy and Action Plan on Women, Peace and Security call for the integration of gender perspectives in all NATO CT efforts. The 2019 updated Action Plan on Enhancing NATO's Role in the International Community's Fight against Terrorism calls for further efforts in support of the Women, Peace and Security Agenda. It tasks to identify further opportunities to include a gender perspective in NATO CT efforts, including in the Alliance's cooperation with partners and taking into account the many different roles in which women may serve in terrorist groups and organizations.

¹⁶ As per AC/340(EAPC)N(2019)0015-REV1 on NATO Guidelines for Gender Mainstreaming in Small Arms and Light Weapons.

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contribute to and be influenced by an iterative gender analysis. As NATO forces conduct an analysis (which includes a gender analysis) the implications, effects and potential unintended effects of NATO/others actions, or lack of actions, must be recorded to allow for adjustments to be made and to ensure that lessons are learnt and applied¹⁷. This will enable Commanders to make better informed decisions.

a. Monitoring.

Monitoring is a continuous process that enables more informed assessment. Adding gender perspective further builds a more comprehensive picture of the environment and its changing dynamics.

b. Integrated and functional reporting.

Reporting on gender based information should be integrated into standard reporting procedures and systems. Reporting should include information about the impact of NATO interventions on the entire population using SADD to inform the analysis. It is mandatory to report on trends relating to CRSV incidents and where they occur, and to report on any SEA allegation¹⁸.

In addition to regular reporting, there is a requirement for functional reporting. This requires an evaluation on the successful integration of gender perspective, including the policies aiming to prevent and respond to CRSV and SEA. Therefore, Functional Reporting between the different levels within NATO (e.g the GENAD monthly report) is essential.

c. Assessment.

Through active monitoring and reporting, commanders are able to assess the overall impact and effect of the operation and make necessary changes as required to their courses of action. Integrating gender perspective enables the commanders to make more informed decisions.

4-7. Monitoring, reporting and assessing considerations

- a. Use of SADD in all reporting requirements. SADD enables greater situational awareness by acquiring information about the entire civilian population and not failing to consider women, men, girls and boys being different parts of the population.
- b. Ensure, where possible, that the reporting layout and content result in data that would be relevant to and receivable in a judicial process.
- c. Consultation with local women, women's organisations and other civil society actors as part of information-gathering activities to construct a comprehensive overview of the security situation.
- d. Consult with women's organisations and other civil society actors and consider inviting them to contribute to the establishment of verification mechanisms and joint

¹⁷ Use the NATO Lessons learned process and NATO Lessons Learned Portal - <https://nllp.jallc.nato.int>.

¹⁸ When it comes to SEA, reporting is paramount to ensure accountability and to prevent impunity for the abuses possibly committed by NATO forces/personnel.

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monitoring commissions.

e. Use a gender perspective when assessing monitoring and verification activities, as well as interaction with the local population.

f. Consider deploying a gender balanced force composition to have access to men and women of the local population in order to support collection and dissemination of non-sensitive information (e.g. mixed engagement teams, female uniformed personnel, both male and female interpreters).

g. Have the ability to geo-reference and/or create mapping for specific gender-related incidents, including, but not limited to CRSV and SEA, or any events that hinder the equal provision of security for women, men, girls and boys, or events and incidents that have a disproportionately negative effect on women, men, girls and boys.

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CHAPTER 5 – RESPONDING TO AND PREVENTING GENDER-BASED VIOLENCE, CONFLICT-RELATED SEXUAL VIOLENCE AND SEXUAL EXPLOITATION AND ABUSE

5-1. Aim

The aim of the chapter is to raise awareness on the prevention and response to Conflict-Related Sexual Violence (CRSV) and Sexual Exploitation and Abuse (SEA) as prevalent forms of violence within the broader concept of gender-based violence, conflict-related or not.¹⁹

5-2. General - Gender-based violence

- a. UNSCR 1325 and related Resolutions call upon all parties to armed conflict to take special measures to protect adults and children from **gender-based violence**, particularly rape and other forms of sexual abuse²⁰.
- b. In 2015, NATO Military Authorities developed MCM-0009-2015, the Military Guidelines on the Prevention of, and Response to, Conflict Related Sexual and Gender-Based Violence (CRSGBV), defined as: “any sexual and/or gender-based violence against an individual or group of individuals, used or commissioned in relation to a crisis or an armed conflict”.
- c. The 2015 Military Guidelines covered multiple aspects: CRSV (which is now addressed in a separate NATO Policy – see para. 5.5); the need for standards of behaviour to address the conduct of NATO personnel (this is now covered by NATO Policy on SEA – see para. 5.6); and NATO’s role in the prevention and response to CRSGBV. These Military Guidelines will have to be reviewed and adapted to take into account the latest approved policies and the use of agreed and clear terminology.
- d. NATO aims to support the UN’s leading role in its efforts to prevent and respond to conflict-related gender-based violence (including sexual violence). NATO Military Authorities “have to continue working to implement UNSCR 1325 and related Resolutions, integrating the prevention and response to CRSGBV into the education, training, exercises, operational planning process, conduct of operations, and evaluation of NATO-led operations and missions as appropriate”²¹. When such violence is being applied as a tactics of war or conflict, NATO personnel are expected to prevent and respond to it. This includes gender-based persecution employed by a party to a conflict or targeted campaigns of sexual slavery, regardless if these acts are being employed by a state or non-state actors²².

¹⁹ The umbrella term “gender-based violence” includes the terms “conflict-related sexual and gender-based violence” (CRSGBV), mainly used in the 2015 NATO Military Guidelines (MCM-0009-2015), “conflict-related sexual violence” (CRSV), used in the new 2021 CRSV Policy, and Sexual Exploitation and Abuse (SEA), which can occur in a conflict-related situation or not.

²⁰ UNSCR 1325 (pg3) calls upon all parties...“to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict”.

²¹ See MCM-0009-2015 Military Guidelines.

²² See MCM-0009-2015 Military Guidelines.

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e. This BI-SC directive implements in particular NATO policies on **CRSV** (2021) and **SEA** (2019). While the SEA policy has a wider application than this Directive, SEA runs counter to NATO's principles and core values, and undermines the effectiveness and credibility of the Alliance and risk mission success.

f. **Terminology differences** (see Figure B). **CRSV** relates to sexual violence committed by personnel (armed forces or civilians) other than NATO forces, against civilians or military forces. It is often used as a strategy of warfare. **SEA** relates to sexual exploitation and abuse committed by NATO personnel²³ against local population. Sexual violence committed between two (or more) NATO personnel is **sexual harassment**, and is covered by NATO Policy on harassment, bullying and discrimination in the workplace²⁴, which has a broader scope.

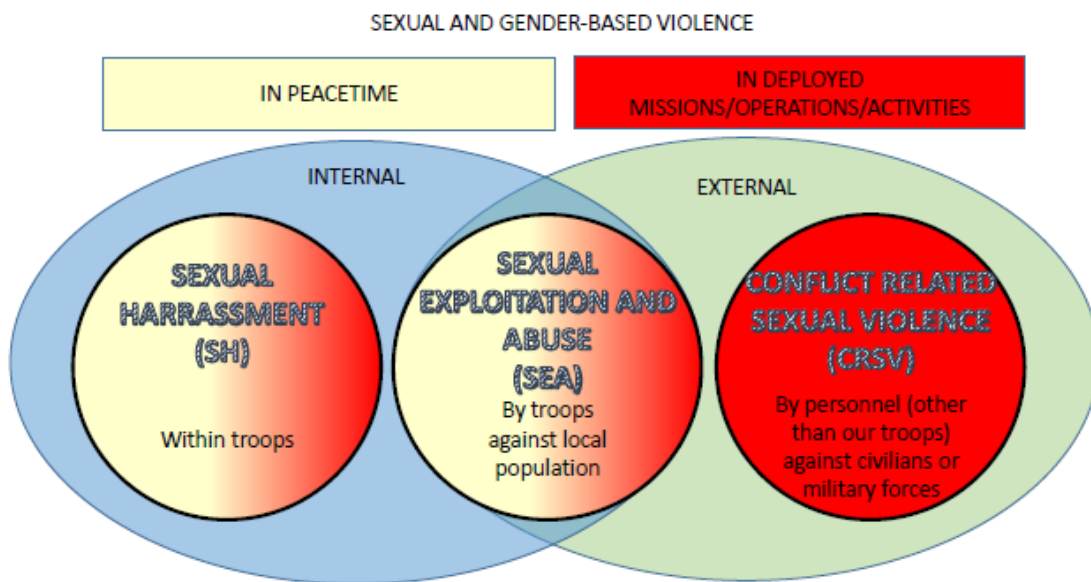


Figure 2: Differences between sexual harassment, SEA and CRSV.

5.3. **International law.** The conduct of military operations, especially in armed conflict situations, is regulated by International Humanitarian Law (IHL), international human rights law and international criminal law. The protected status of civilians, and specifically the status for people in vulnerable situations, including women, children, the elderly and the injured is included in the Geneva Conventions and in their Additional Protocols and addressed in the Rome Statue of the International Criminal Court. Individuals that violate these obligations may be prosecuted for committing war crimes. Violations of these obligations may of themselves constitute, or be components of, other war crimes (for example torture, inhumane treatment, rape or sexual violence), and be subject to criminal and disciplinary investigations and proceedings. While not all NATO Member Nations have

²³ See definition/scope of application in para. 5-6.

²⁴ ON(2020)0057-COR1, NATO Policy on the prevention, management and combating of harassment, bullying and discrimination in the workplace, dated 4 November 2020.

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ratified the aforementioned conventions and treaties, efforts are made to ensure, consistent with the obligations assumed by those who have not ratified, that a common approach is adopted by Member Nations for the purposes of NATO missions, operations and Council-mandated activities. Annex E summarizes both the relevant UNSCR and gender-based protection in IHL.

5-4. **Standards of Behaviour.** The following guidance is promulgated in applying NATO Code of Conduct in the context of the present directive²⁵. NATO personnel are expected to:

- a. Be committed to maintaining the highest standards of professional and personal conduct. Sexual relationships when based on inherently unequal power dynamics are prohibited and may not only undermine the credibility and integrity of the work of the Alliance but also be prohibited under national regulations or local law.
- b. Be faithful and true to the enduring role of the Alliance and maintain the principle of unity upon which it was founded.
- c. Think, talk, act and behave in a manner befitting the dignity of professional, disciplined, mature, respected and trusted NATO personnel, displaying the highest integrity and impartiality.
- d. Respect the local laws, customs and practice, through awareness and respect for the culture, religion, traditions, and environment²⁶. As such, demonstrate respect and courtesy for and towards the local population as well as other NATO personnel regardless of their creed, rank, gender, or origin.
- e. Serve the Alliance's interest above personal interests.
- f. Do not engage in improper conduct or misuse positions or authority held.
- g. Treat anyone within or in the custody of NATO forces with the required professionalism, dignity, and respect.

5.5. **Conflict-Related Sexual Violence**

- a. **Policy.** In 2021, the NAC endorsed the NATO policy on Preventing and Responding to Conflict-Related Sexual Violence during the Brussel's Summit. This Policy provides an overarching political framework for NATO's role in preventing and responding to CRSV in all its missions, operations and Council-mandated activities, which is to be operationalised through the aforementioned military guidelines and within the broader framework of policies and guidance including the WPS agenda, the Human Security agenda, and International Law as applicable. The Policy applies

²⁵ The Code of Conduct applies both to NATO civilians and assigned military personnel (to the extent compatible with national military policy), including all civilians under contract, such as permanent, temporary, and intern staff. Its material scope goes beyond CRSV and SEA.

²⁶ NATO policy on SEA has to be applied whatever domestic legal framework applies to the abuses referred in the Policy (for instance even if prostitution is not an illegal activity, or if the age of consent is under 18 year old in the host nation law). Additionally, even if gender-based violence is to be considered as part of local practices, it has at least to be assessed and reported, consistent with NATO policies such as CRSV Policy.

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to all deployed personnel, civilian and military, in all phases of NATO missions, operations and Council-mandated activities.

b. **Definitions.** NATO defines Conflict-Related Sexual Violence as “rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, forced sterilization, forced marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict”²⁷. CRSV is by definition committed by personnel outside NATO (armed forces, militias, civilians), but related to an armed conflict.

c. As a strategy of warfare, CRSV can be used as a tool of persecution or genocide to exterminate an ethnic group, threaten opposition and to tactically push civilians from a geographical area. It also can be used to breakdown the public or command order. All Commanders must recognize the responsibility to act within their mandate in order to prevent and respond to CRSV.

d. **Prevention of CRSV.** NATO planners will identify risks of CRSV in relation to NATO missions, operations and Council-mandated activities by using analytical tools such as sex and age-disaggregated data and early warning indicators throughout the mission cycle. Furthermore, NATO will engage with relevant International Organisations, NGOs, partners, civil society, including women’s rights organisations and women-led civil society, at-risk populations and other appropriate actors, including coordination with host nations as appropriate, to identify, analyse and report threats to civilians using the appropriate civil-military coordination mechanism.

e. **Obligation to report**

(1) NATO Commanders will report on CRSV as part of the mission analysis, planning and execution, and include reports to NATO Headquarters through the Periodic Mission Reviews (PMR).

(2) If personnel in a NATO-led operation or mission encounter CRSV, the NATO Commander, consistent with international law, UNSCRs and NATO policies, should ensure that objective, accurate and reliable information on the types of CRSV is collected and reported in a timely manner.

(3) To report CRSV, the NATO forces can use specifically developed forms²⁸. They can also take inspiration and/or use the framework established by UNSCR 1960 (2010) for Monitoring, Analysis, and Reporting Arrangements (MARA) on CRSV. The purpose of MARA is to ensure the systematic gathering of timely, accurate, reliable and objective information on CRSV. In return, MARA offers a coherent and coordinated approach, at field level, to enhance data collection and analysis of incidents, trends and patterns of

²⁷ It is noted that the UN definition of CRSV mentions that “the term [CRSV] also encompasses trafficking in persons for the purpose of sexual violence or exploitation, when committed in situations or conflict” (See S/2019/280, CRSV Report of the UN Secretary General; 2020 Handbook for UN Field Missions on preventing and responding to CRSV, p.5).

²⁸ See for instance the CRSGBV Fielded Units Reporting Format in JFCNP SOP 106 Gender Advisor’s Functions in JFC & JTF Headquarters, dated 29 mars 2019.

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CRSV²⁹. So when feasible, NATO missions, as part as the network of community-level information sources, shall endeavour to support and draw on UN efforts, by supporting the MARA process, when such information can be exchanged³⁰.

(4) Endeavour to share information collected with the relevant UN authorities, without prejudice to force protection and to the primary requirement of operational security.

f. **Training.** All personnel in NATO missions, operations and Council-mandated activities will receive mandatory pre-deployment and in-mission training on identifying, preventing and responding to CRSV. When invited to train security forces of the Host Nation, NATO will also provide training on and raise awareness of CRSV in accordance with the Policy.

g. **Protection of victims/survivors.** Within NATO missions, operations and Council-mandated activities, NATO will respond to CRSV in accordance with International Law, as mandated by the Council, and within the approved rules of engagement up to and including the use of force, when authorised. In extremis, when and where other actors in the mission area are not able to access victims/survivors, NATO will, where possible, provide emergency first response, including medical assistance, to victims/survivors. If NATO personnel encounter victims/survivors of CRSV, the following guiding principles are to be observed:

- (1) in accordance with a victim-centred approach, respect victims/survivors as individuals and their informed choice;
- (2) all victims/survivors will be treated fairly, respectfully, equally, with dignity and without discrimination;
- (3) “do no harm” in implementing the Policy: no action should be taken that could worsen the situation or trauma of a victim/survivor;
- (4) do not interrogate or interview victims/survivors;
- (5) respect privacy and confidentiality of victims/survivors.

²⁹ Provisional guidance note - Implementation of UNSCR 1960 (2010) on Women, Peace and Security (conflict related sexual violence) – June 2011.

³⁰ As directed by MCM-0009-2015 Military Guidelines.

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5-6. **Sexual Exploitation and Abuse**

a. In November 2019, NATO adopted the policy on Preventing and Responding to Sexual Exploitation and Abuse (SEA). The SCs implement activities within in SEA Action Plan and in their respective Codes of Conduct³¹ and related directives³².

b. SEA runs counter to NATO's principles and core values, and undermines the effectiveness and credibility of the Alliance and risks mission success. Therefore, **NATO has a zero-tolerance approach to all acts of SEA** and all personnel (Peacetime Establishment as well as deployed missions, teams, and headquarters) and NATO-led forces are prohibited from engaging in, or facilitating, any form of SEA. All personnel must strive to prevent and respond to SEA within their sanctioned power and authority, and all allegations of SEA are to be reported and assessed.

c. Definitions.

(1) **Sexual Exploitation** is any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Acts that constitute sexual exploitation include, but are not limited to, the exchange of money, goods or other commodities and or services, employment or any exchange of assistance that is due to the local population in exchange for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour. All such transactional sex, including the exploitation of the prostitution of others, is a form of sexual exploitation. Sexual relationships based on inherently unequal power dynamics are a form of sexual exploitation.

(2) **Sexual abuse** is any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. Acts that constitute sexual abuse include, but are not limited to, any action or behaviour of a sexual nature that coerces, threatens or forces a person to engage in a sexual activity, or any unlawful sexual activity with a person under the age of 18.

d. Preventing SEA.

(1) All personnel³³ **are prohibited** from engaging in, or facilitating, any form of SEA. All personnel must strive to prevent and respond to SEA within their sanctioned power and authority, and have, regardless of their position, a duty to report to their chain of command any concerns or suspicions about a possible case of SEA.

(2) All personnel will be vetted by the appropriate national authority based

³¹ PO(2020)0401, NATO Code of Conduct - amendment, dated 18 Dec 2020 ; ON(2017)0026, Building Integrity – Code of Conduct, 07 June 2017.

³² ACO Directive 040-007 ACO Standards of Conduct, dated 14 April 2020. ACT directive 40-0 ACT policy statement : code of conduct and core values, dated June 2019.

³³ The NATO Policy on Preventing and Responding to SEA applies to all personnel, which includes NATO military personnel, NATO International Civilian Staff, NATO Contractors, and to locally employed personnel.

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on national procedures and regulations in line with NATO SEA policy.

(3) All personnel will receive mandatory training on preventing and responding to SEA. The provision of the training will follow agreed NATO standards. In particular, prior to deployment Commanders will be briefed on the established complaints mechanisms and reporting requirements.

(4) Risk factors and possible mitigation strategies will be considered in the planning and conduct of all, NATO and NATO-led operations, missions and other Council approved activities, and Commanders and Heads of NATO Bodies will be responsible for creating an environment conducive to the prevention of SEA.

e. Responding to and reporting of SEA:

(1) Victims of SEA are part of the local population. Potential local victims of SEA are usually in need of basic necessities, and they resort to receiving them from the deployed troops. Such transactions may appear to be consensual but are exploiting a vulnerable situation with significant impact to the victim.

(2) All personnel have a **duty to report any instances or allegations of SEA** in accordance with established reporting mechanisms. All personnel are expected to report misconduct in good faith and to cooperate with any investigation.

(3) NATO will ensure complaint mechanisms exist that enable alleged cases of SEA to be duly and appropriately submitted to competent authorities by complainants. Such complaints mechanisms are currently found in ACO/ACT Codes of Conduct respectively. Similarly and following the implementation of the SEA Action Plan³⁴, reporting mechanisms will be implemented in due course. All complainants, victims and survivors will be treated fairly with dignity and respect and with the approach of 'do no harm'.

(4) The sending Nations are responsible for conducting investigations and pursuing appropriate administrative, disciplinary or criminal proceedings related to allegations of SEA concerning their personnel. Discipline over military and civilian personnel provided by Nations is a national responsibility. For other persons, the appropriate NATO authorities are responsible for conducting preliminary investigations and pursuing any appropriate administrative and disciplinary proceedings related to allegations of SEA, as set out in ACO/ACT Codes of Conduct respectively.

³⁴ PO(2020)096, Approval of the Action Plan to implement the NATO policy on preventing and responding to SEA, 29 September 2020.

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CHAPTER 6 – EDUCATION, TRAINING AND EXERCISES

6-1. General

a. Gender training is a national responsibility of NATO nations assigning military staff to the NCS and Nations contributing to missions, operations and Council-mandated activities. Training prior to assignment, pre-deployment training, in-theatre training and individual subject-matter training shall include activities to ensure that this topic is addressed for militaries and civilians. The greatest effect is gained if gender perspective is included in the earliest forms of training and education and mainstreamed throughout courses at different levels to achieve lifelong and transformative learning.

b. Acknowledging, understanding and working with gender perspective means that NATO can account for the different security needs and priorities of women, men, girls and boys when planning and executing operations with the aim of improving operational effectiveness. There are instances where specific NATO positions will require increased levels of knowledge and skills in relations to gender competencies. The below activities are to assist in ensuring coherence with political guidance and the organizational values NATO seeks to institutionalize throughout its Command and Force Structures.

c. To meet the NCGPs' objective³⁵ of mainstreaming gender perspective throughout NATO as a strategy for making the concerns and experiences of women, men, girls and boys an integral dimension of the design, implementation, monitoring and evaluation of policies, programmes and military operations, the following activities shall be undertaken to increase the individual and collective competencies of the Alliance:

(1) Integration of gender perspective including CRSV and SEA into NATO Education, Training, Exercise and Evaluation (ETEE). This may be achieved through standardized specifications, coaching or mentoring programs, exercise objectives, scenarios or case studies, etc. Coherent integration is required under the principles of Global Programming;

(2) Inclusion of standardized gender perspective training in all pre-deployment training for TCNs. This national responsibility may be achieved by incorporating all, or portions of, the Training Package for Nations (see paragraph 6-5 e). Furthermore, national gender-related training programmes should be reported annually by nations through the Summary of the National Reports to NATO Member and Partner Nations³⁶.

³⁵ MC 0249/3 (Final) - NATO Committee on Gender Perspectives (NCGP) – 3 February 2014.

³⁶The Summary of the National Reports of NATO Member and Partner Nations to the NATO Committee on Gender Perspectives (NCGP) has been one of the lines of effort to share gender related information and progress within the national armed forces. These reports are publically accessible on the IMS GENAD Office webpage.

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6-2. **Gender Education and Training Policy and Framework**

a. **Education and Training Policy.** NATO Education and Training (E&T) on gender will adhere to NATO ETEE policy, as outlined in the MC 0458 series, and detailed in the supporting Bi-Strategic Command Directives. NATO's E&T requirements addressing Gender in Military Operations, UNSCR 1325 and related Resolutions and NATO policy on WPS are identified within the Strategic Training Plan (STP) for Gender in Military Operations Discipline, that has been approved by the NAC (Reference X).

b. **Education and Training Programme Framework.** Consistent with the NATO E&T Plan for Gender in Military Operations (Reference X), NATO personnel must be trained on UNSCR 1325 and related Resolutions. In accordance with Bi-SC Directives 075 series, all education and training initiatives shall follow the Global Programming framework. At all levels of the NCS, gender perspective, NATO WPS Policy, including CRSV and SEA policies, must be implemented into ETEE programmes. The responsible parties are to analyse education and training programmes during periodic curriculum reviews to incorporate the most current gender-related information and trends.

(1) Stakeholders

(a) **HQ SACT Joint Force Development (JFD).** JFD holds the final authority within the E&T framework for all gender training programme strategies, initiatives, analyses, changes and approval.

(b) **SHAPE GENAD** is the Requirements Authority (RA) for the dimensions, concepts and scope of training gender as a discipline.

(c) **The Nordic Centre for Gender in Military Operations (NCGM),** as NATO Department Head (DH) for the Gender in Military Operations Discipline, works within NATO's Global Programming governance and policy structure and under an appointment arrangement with HQ SACT to ensure NATO's gender related training and education requirements are holistically managed across the Alliance and satisfied in accordance with the principles and development methodology of Global Programming and the role of DHs.

(2) Processes

(a) **Initial requirements** for the Gender in Military Operations Discipline are found in the STP (Reference X). On behalf of HQ SACT JFD, the DH invites all gender stakeholders (RA, Subject Matter Experts, Education Training Facilities (ETFs) and affiliated organisations) to the Annual Discipline Conference (ADC) to facilitate discussion on course and content updates; coordinate national support and participation; provide operational feedback, and discuss recommendations regarding gender training programme development, goals and standards.

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(b) The **Discipline Alignment Plan (DAP)** is a tool within Global Programming used by the DH to capture the Alliance's evolving requirements pertaining the NATO WPS Agenda which includes gender perspective integration, gender mainstreaming, CRSV and SEA.

6-3. **Leadership Training.** There are specific training and education programs targeting institutional leaders and those at command or branch head level to increase individual gender related competencies³⁷. These programs are commensurate with rank and position and provide the background on NATO's commitment's to the WPS Agenda, the translation of this commitment to NATO activities and their associated leadership responsibilities. NCGM organises seminars for senior and key leaders that focuses on how to implement gender perspectives in military operations and how this will contribute to the achievement of the overall political, military strategic and operational objectives.

6-4. **Education and Individual Training**

a. To fulfil NATO's intent in support of UNSCR 1325 and related Resolutions and attain the minimum gender competencies, all staff members within the NCS, irrespective of position, must have a basic working knowledge of gender perspective by completing Joint Advanced Distributed Learning (JADL) 169: Improving Operational Effectiveness by Integrating Gender Perspective. NATO Force Structure commands and NATO Allies and Partners are strongly encouraged to associate themselves with and utilise these training opportunities.

b. Additionally and as prescribed in related NATO policies and action plans, ACO and ACT are responsible for ensuring that all personnel receive mandatory training on preventing and responding to CRSV and SEA.

c. The completion of this specific training will be monitored and progress will be regularly reported as part of the reports on the implementation of the related NATO policies and action plans.

d. Coaching and mentoring programmes to support the professional development of all personnel and to acquire and maintain cognitive awareness are highly encouraged³⁸. This takes into consideration the diverse qualifications and experiences of staff (men and women) in order to optimise the Alliance's human capital.

6-5. **Exercises and Collective Training**³⁹. NATO forces, irrespective of position, must understand the WPS agenda, implementing UNSCR 1325 and related Resolutions, and prior to deployment, be trained on integrating gender perspective. There may be additional gender specific qualifications to be achieved in accordance with the crisis establishment

³⁷ The list of courses are provided through the ETOC.

³⁸ In line with the NWCC, there are coaching and mentoring programmes at NATO (such as the programme by Human Capitale Enhancement & Individual Training Branch at HQ SACT) to enhance intellectual capacity of the personnel.

³⁹ Consistent with MC 0458/3, Exercises is understood as collective activities where HQs and/or formations are trained to fulfil their missions, driven by external stimuli and typically evaluated for purposes of readiness assessments. Collective training is understood as procedural drills and practical application of doctrine, plans and procedures to acquire and maintain collective tactical, operational and strategic capabilities.

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training requirements. The following are minimum responsibilities of compliance:

- a. The operationalisation of WPS Agenda, the comprehensive integration of gender perspective, gender mainstreaming and how these relate to operational effectiveness, are highly encouraged during all NATO collective training and exercises, at all levels, and follow the appropriate exercise phases, when possible with the DH support. Training should also emphasise the need to comply with national regulations.
- b. The strategic levels are to ensure that gender aspects are embedded into relevant strategic guidance and directives (ex. SACEUR's Annual Guidance on Education, Training, Exercises and Evaluation- SAGE, HQ SACT's training and individual education initiatives, etc.).
- c. While incorporating gender perspective in NATO exercises, ensure that specifications, setting, scenario development, and objectives for NATO exercises and training include gender perspective based on UNSCR 1325 and related Resolutions, including CRSV and SEA.
- d. In order to achieve optimal integration of gender perspective in the exercise and collective training process, the inclusion of gender SMEs (GENAD and GFPs) is required in all the stages of exercise planning. GENADs advise the appropriate leadership and staff involved in the different stages. The GFP network operates as a group of functional experts with gender training that can support and enhance the effective integration of gender perspective. Overall responsibility for the integration of gender perspective rests with the leadership. Therefore, mentoring and evaluation on the integration of gender perspective in NATO exercises refers to the whole Command and training audience, not exclusively to the GENADs and GFPs.
- e. HQ SACT, with the support of the DH, will maintain and further develop the Gender Education and Training Package for Nations to assist in the TCN's responsibility to conduct pre-deployment training. This tool is designed to increase awareness on gender perspective in military operations and to assist NATO Allies and Partners to build their gender related capacities and readiness. This package, accessible on the HQ SACT Office of the Gender Advisor public website, consists of training modules with the aim to strengthen gender perspective at the three levels (strategic, operational and tactical). Users are highly encouraged to complete the feedback form after using the Training Package for Nations.
- f. HQ SACT will encourage the incorporation of gender perspective training into courses at NATO NETFs, NATO CoEs, Partnership Training and Education Centres, National Training Institutions, and NATO in-theatre training centres related to capacity building, induction, mission and national training programmes.

6-6. **Quality Management of Education and Training.** NATO ETEE policy prescribes that NATO delivered ETEE processes and activities must comply with a common set of standards identified within the ACO Forces Standards, STANAGs and NATO Quality Standards.

6-7. **Evaluation.** The evaluation of NATO HQs (NCS and NFS), exercises and collective

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training events is to assess the integration, effects and impacts related to gender perspective at all levels. These reports should be disseminated to the relevant community of practice when possible.

6-8. **Training of Local Security Forces.** When invited and duly authorised to train local security forces, NATO should, as appropriate, and in accordance with its mandate and the SFA concept, include awareness on UNSCR 1325 and related Resolutions for local security forces (i.e. by providing expertise or conducting respective trainings).

GLOSSARY OF ABBREVIATIONS

ACO	Allied Command Operations
ACT	Allied Command Transformation
Bi-SC	Bi-Strategic Commands
CA	Comprehensive Approach
CAAC	Children and Armed Conflict
CCT	Cross-cutting Topic
CD&E	Concept Development & Experimentation
CHODs	Chiefs of Defence
CIMIC	Civil-Military Cooperation
COEs	Centres of Excellence
COI	Community of Interest
COPD	Comprehensive Operations Planning Directive
COS	Chief of Staff
CPP	Capability Programme Plan
CR-SGBV	Conflict-Related Sexual and Gender-Based Violence
CRGBV	Conflict-Related Gender-Based Violence
CRSV	Conflict-Related Sexual Violence
DAP	Discipline Alignment Plan
DDA	Deterrence and Defence of the Euro-Atlantic Area
DH	Department Head
E&T	Education and Training
ETEE	Education, Training, Exercise and Evaluation
ETFs	Education Training Facilities
EWI	Early Warning Indicators
GENAD	Gender Advisor
Gender FPG	Gender Functional Planning Guide
GFP	Gender Focal Point
HQ SACT	Headquarters Supreme Allied Commander Transformation
IC	International Community
ICC	International Criminal Court
IHL	International Humanitarian Law
IMS	International Military Staff
IO	International Organisation
JADL	Joint Advanced Distributed Learning
JALLC	Joint Analysis and Lessons Learned Centre
JFC	Joint Force Command
JFTC	Joint Forces Training Centre
JOA	Joint Operations Area
JWC	Joint Warfare Centre
LoE	Lines of Effort
MC	Military Committee
MloP	Military Instrument of Power
MP	Military Police
NCGM	Nordic Centre for Gender in Military Operations

NCGP	NATO Committee on Gender Perspectives
NCS	NATO Command Structure
NFC	NATO Force Structure
NGO	Non-governmental Organisation
NMS	NATO Military Strategy
NNE	Non-NATO Entities
NWCC	NATO Warfighting Capstone Concept
OPP	Operations Planning Process
PE	Peacetime Establishment
PMESII	Political, Military, Economic, Social, Infrastructure and Information
PMR	Periodic Mission Reviews
PoC	Protection of Civilians
POW	Programme of Work
RA	Requirement Authority
RoE	Rules of Engagement
SAG	Staff Advisory Group
SAGE	SACEUR's Annual Guidance on Education, Training, Exercises and Evaluation
SC	Strategic Command
SEA	Sexual Exploitation and Abuse
SFA	Security Force Assistance
SHAPE	Supreme Headquarters Allied Powers Europe
SME	Subject Matter Expert
SOPs	Standard Operating Procedures
SPP	Strategic Plans & Policy
STP	Strategic Training Plan
TCC	Theatre Component Command
TCN	Troop Contributing Nations
TNA	Training Needs Analysis
TRA	Training Requirements Analysis
UHE	Understanding the Human Environment
UNSCR	United Nations Security Council Resolution
WDA	Warfare Development Agenda
WPS	Women, Peace and Security

GENDER ADVISOR AND GENDER FOCAL POINT FUNCTIONS AND TRAINING

1. Gender Advisors

a. Consistent with this Directive, the functions of the GENADs at the strategic, operational or tactical level may include but are not limited to:

- (1) Providing functional and technical guidance on UNSCR 1325, related Resolutions and integrates gender perspective in different lines of effort.
- (2) Ensuring unity of effort and synchronicity on behalf of the Commander by providing direct advice to the Command Group, staff and personnel and strategic guidance to operational commands (as applicable).
- (3) Conducting and maintaining a functional relationship with other GENADs and GFPs within NATO in order to ensure synchronisation within the Gender Advisory Structure. Supports the NATO Committee on Gender Perspectives as requested.
- (4) Establishing and maintaining cross-functional coordination with HQ staff and personnel. GENAD is a member of cross-functional working groups, task forces, committees, particularly in planning [Strategic Planning Group (SOPG), or the Joint Operations Planning Group (JOPG)].
- (5) Providing reach-back expertise on gender perspective in military operations in support of operational HQs (as applicable).
- (6) Disseminating a gender analysis ensuring that gendered experiences of women and men are considered as part of the on-going work to gain situational awareness and support the operations planning process with relevant conclusions.
- (7) Providing HQ internal and external functional reporting, including but not limited to, gender-related inputs to existing/standard reporting i.e., quarterly report, Periodic Mission Review.
- (8) Regularly contributing to mainstreaming efforts through integrating gender perspective in NATO doctrines and standards (development and review), concept development and experimentation, food for thought papers and other documents as appropriate.
- (9) Providing support for in-house education and training (including Key Leader Training, mentoring, induction brief and training for Gender Focal Points) as applicable.
- (10) Raising awareness and enhances knowledge on gender perspective in military operations.

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b. GENAD Job Descriptions will define the required training to be concluded for GENADs. Additionally, ACO and ACT implementing directives and orders will identify the training opportunities, and as a minimum, all GENADs are required to be trained on NATO's institutional frameworks and guidance on implementing the NATO WPS Agenda and gender perspective integration. This involves participating in specific NATO-approved courses on gender perspective in military operations.

2. Gender Focal Points

a. **Appointment.** Each HQ Division/Directorate is required to nominate at least one GFP on a permanent basis and provide the nomination to the COS for approval. This minimum requirement is to be maintained when deployed, including to exercises. The GFP networks should include a diverse representation of the respective Command (men, women, civilians, officers, NCOs and enlisted). Additional nomination could be considered in larger divisions, or in branches and sections under specific circumstances, if appropriate and with prior DCOS/COS approval.

b. **Tasks.** To support the integration of gender perspective within their functional areas, the GFP:

(1) Advances gender perspective integration through contributing to the implementation of the NATO WPS Agenda,

(2) Integrates gender perspective into their daily business in accordance with this Directive,

(3) Support the Commands gender mainstreaming efforts.

(4) Maintains functional dialogue with the GENAD, including providing support to the gender analysis, monitoring and reporting functions and reports within their chain of command.

(5) The roles and responsibilities of GFPs are further described in:

(a) SHAPE COS Order 100 (Reference BB) and the ACO Gender Functional Planning Guide. The ACO GFP's functions are to be described within the relevant Job Descriptions, which also are to include the identified training and evaluation requirements. SHAPE COS Order 100 ensures that the additional workload of the GFP incumbents is well respected, acknowledged, and reflected in career related papers.

(b) ACT Directive 40-02 "Strengthening gender perspective within ACT" (Reference AA). It describes how the ACT GFPs are nominated, what is expected from them in their respective Directorate/Command and within the ACT GFP network. This directive include the list of the nominated GFPs and is updated on an annual basis.

c. **Training.** All GFPs are required to be familiar with NATO's institutional frameworks and guidance on implementing the UNSCR 1325 and related

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Resolutions.

- (1) Required ADL courses for GFPs are:
 - (a) The 100-level ADL 169 and
 - (b) The 200-level ADL 171 course specifically for GFPs.
- (2) Other available NATO-approved 200-level courses are:
 - (a) **Gender Focal Point Course** (strategic-operational) provided by the Crisis Management And Disaster Response COE, and
 - (b) **Gender Focal Point Course** (tactical) provided by the Nordic Centre for Gender in Military Operations

ANNEX C, related to the drafting of operational plans, **is not** included in the releasable to the public version.

STAFF IMPLEMENTATION RESPONSIBILITIES

The following staff responsibilities (not all inclusive) are listed and may require GENAD/GFP support or coordination:

1. **J1/Human Resource Management (HRM).** Integrate gender aspects in policy, Standards of Behaviour and Code of Conduct, recruitment and retention to ensure an improved gender balance (i.e., local employees in mission areas), and identify and assess potential force composition and possible related shortfalls. Develop PE and CE structures, including job descriptions, as required. Job descriptions and vacancy notices should be developed and/or updated through gender-inclusive language⁴⁰ to ensure neutral recruitment. HRM should share data that disaggregates the gender, rank and positions of staff and personnel generated through the use of the Automated Personnel Management System. If and when required, the GENAD supports Human Resources (HR/J1) or the LEGAD, regarding gender-related policy, procedures, training and inquiry into breaches of standards of behaviour, code of conduct or SEA behaviour.
2. **J2.** Contribute to the understanding of the operational environment with an integrated approach incorporating sex and age-disaggregated data (SADD), analysis of transnational issues and threat analysis of attacks/aggression to civilians and local population. Address gender perspective impacting intelligence collection (i.e., Human Intelligence, risk assessments), analysis and production. GENAD to ensure that a gender analysis is integrated into all assessments and supported by intelligence collection supports the Knowledge Development process for operational planning. Provide subject-matter expertise and assessments on crisis areas as required.
3. **J3.** Support assessments regarding women's, men's, girls' and boys' security situations and gender analysis, supporting the planning and execution of operations. For example, Info Ops, PSYOPS, patrols, and search operations. Ensure a gender-balanced approach to efforts during Key Leader Engagement. GENAD to be informed on gender-related activities, plans and assessments.
4. **J4.** Support medical, logistical and infrastructure matters. GENAD supports the planning and assessment of logistical activities that have an impact on gender relations, for example, building facilities, communications, etc.
5. **J5.** Support the campaign plan, operational design and long-term planning with the integration of gender perspective. Take part in the operations planning process, and provide subject-matter expertise. GENAD supports gender-related assessments and planning considerations.
6. **J6.** CIS integrate gender perspective and support GENAD as required i.e., gender-specific equipment, IT and in-theatre communication.
7. **J7.** Contribute to the implementation of NATO WPS Agenda and integrating gender perspective into HQ education, training and collective exercises. Training might include support of: individual training as functional area training, functional specific training (i.e.,

⁴⁰ NATO Gender-Inclusive Language Manual, 2019.

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OLRT, FCE, GFP); and Collective Training (Academics, Battle Staff Training), as required. Develop subject-matter expertise exercise planning documents that includes Exercise Specifications, Training Objectives, Gender Annex to the Exercise Plan, Main Event List-Main Injection List Incident Development (MELMIL ID) and MELMIL Scripting.

8. **J8/Budget and Finance.** Implementation of this directive must be sufficiently resourced.

9. **J9/Civil Military Interaction (CMI).** As part of the Comprehensive Approach (CA) and systematic understanding of the operational environment, support CMI and engagement efforts including establishment of a comprehensive picture of organisations and groups, including international organisations, non-governmental organisations and civil society organisations that contribute to the implementation of UNSCR 1325 and related Resolutions. Contribute to information exchange with external organisations through establishment mechanisms (i.e., Information Clearing House). Consistent with the mission, include and engage with local women in conflict resolution and peace building processes by supporting efforts for peace and stability.

10. **Legal Advisor (LEGAD).** Support NATO Commanders, in coordination with the GENAD, on gender-related tasks and NATO's legal obligations. Advise and support the training of staffs and NATO-led forces on CRSV and SEA, particularly as this pertains to associated responsibility and accountability. Provide assistance in matters related to the reporting and complaints mechanisms for CRSV and SEA.

11. **Strategic Communications (StratCom).** StratCom will, in line with policy and guidance, ensure that gender aspects are given appropriate attention within communication planning and outputs, and support the overall strategic and operational intent. Gendered communications should be considered to ensure a well-designed communications strategy as the audience access, filters and understands messaging differently. The use of gender-inclusive language is essential to promoting positive messaging and fighting against discriminatory online practices, such as online gender-based violence.

12. **Capability Development.** Gender perspective as a capability enabler is critical to increasing the effectiveness of NATO's military capabilities and thus requires the integration of gender perspective in Capability Programme Plans⁴¹.

13. **Joint Force Development.** Integrating gender perspective in education and individual training (E&IT) to develop a better collective understanding and thus a better application in operations and missions.

14. **Strategic Plans and Policy.** Shape future military strategy through integrating gender perspective in areas such as, the Strategic Foresight Analysis and the Framework for Future Alliance Operations, as well as, other military concepts, political guidance, and relations with partner nations and other international organizations – including the NATO Defence Planning Process.

⁴¹ Task for Integrating Gender Perspective in CPPs.

INTERNATIONAL LAW ASPECTS OF GENDER PERSPECTIVE IN MILITARY OPERATIONS⁴²

1. UN Security Council Resolutions

- a. **UNSCR 1325** (2000) was the first thematic resolution on Women, Peace and Security. It constituted a landmark in that it officially emphasized the responsibility of States to end impunity for crimes against humanity, war crimes and genocide relating to sexual and other forms of gender-based violence against women and girls, and reaffirmed the need to implement International Humanitarian Law (IHL) and International Human Rights Law (IHRL) to protect them during and after conflicts. It further laid the foundations for the promotion of an increased representation of women at peace processes at all decision-making levels.
- b. **UNSCR 1820** (2008) officially recognizes Conflict-Related Sexual Violence (CRSV) as a tactic of war and states that rape and other forms of sexual violence can constitute in themselves a war crime, a crime against humanity, or a constitutive act with respect to genocide.
- c. **UNSCR 1888** (2009) calls for the establishment of mechanisms to implement resolution 1820, such as the appointment of a UN Special Representative on sexual violence in conflict, the deployment of teams of experts to situations of particular concern in accordance with Host Nation agreements, and the establishment of the so-called “name and shame list” in the Secretary General’s annual report.
- d. **UNSCR 1889** (2009) urges member States, international and regional organisations to take further action to improve women’s participation in all stages of decision-making and requests the Secretary General to submit global indicators (incl. gender mainstreaming) to monitor implementation of Resolution 1325.
- e. **UNSCR 1960** (2010) focuses on measures to end impunity for perpetrators of sexual violence and creates the Monitoring, Analysis and Reporting Arrangement (MARA).
- f. **UNSCR 2106** (2013) recognizes the importance of a comprehensive approach to transitional justice in armed conflict and post-conflict situations by, inter alia, acknowledging that men and boys are also targets of CRSV. It further stresses out the importance of the role of Gender Advisors.
- g. **UNSCR 2122** (2013) encourages member States to develop funding mechanisms to support the work and enhance capacities of organisations that support women’s leadership development. Urges troop- and police-contributing countries to increase the percentage of women military and police in UN peacekeeping operations and requests the provision of adequate training for said

⁴² This Annex seeks to summarise relevant practice and identify legal frameworks such as Law of Armed Conflict and Human Rights treaties. The Annex does not and is not intended to suggest how the treaties and international obligations may be interpreted or apply to specific conflicts or NATO-led operations nor how nations implement or apply the referenced treaties.

personnel.

h. **UNSCR 2242** (2015) recognizes the differential impact on the human rights of women and girls of terrorism and violent extremism, including in the context of their health, education and participation in public life. Encourages the introduction of WPS Agenda into member States' strategic plans (National Action Plans; NAPs). It also states the importance of including gender analysis and technical gender expertise throughout all stages of mission planning in UN operations.

i. **UNSCR 2272** (2016) requests the Secretary General to replace all military units and/or formed police units of those troop-contributing countries whose personnel are the subject of an allegation of SEA, who have not been appropriately investigated and/or held accountable.

j. **UNSCR 2467** (2019) places a specific focus on documenting sexual violence in conflict by adopting a victim/survivor-centred approach.

k. **UNSCR 2493** (2019) focuses on participation of women, the role of the civil society and increased implementation and funding of the WPS Agenda.

l. **UNSCR 2538** (2020) calls for greater inclusion of women – both civilian and uniformed – in all levels of peacekeeping, recognising women are critical to increasing performance and effectiveness of peace operations.

2. **International Humanitarian Law.** The importance of gender mainstreaming is recognized in IHL as a matter of ensuring fundamental protection and treatment. Below are examples from the 1949 Geneva Conventions and the Additional Protocols (1977) of how gender is applied as a criterion for protection in the Conventions through references to sex, women, and 'any other criteria'.

a. Common Article 3 of the **Geneva Conventions** states that: **"In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:**

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;(b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

b. Geneva Convention I (sick and wounded on land) and Geneva Convention II (sick and wounded at sea), Art 12: **"(1) Members of the armed forces and other persons mentioned in the following Article, (2) Such persons shall be**

treated humanely and cared for by the Parties to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.(3) Only urgent medical reasons will authorize priority in the order of treatment to be administered.(4) Women shall be treated with all consideration due to their sex.”

c. Geneva Convention III (Prisoners of War). “While Article 13 does not explicitly prohibit sexual violence, it does so implicitly because it establishes an obligation of humane treatment and requires protection against violence or intimidation. The term ‘sexual violence’ is used to describe any act of a sexual nature committed against any person under circumstances which are coercive. Situations of detention can constitute coercive circumstances, as can fear of violence, duress, psychological oppression or abuse of power. Prisoners of war can therefore be at particular risk of such coercion. Women and young prisoners, including children, are at high risk of being the target of sexual violence. Practice has also shown that men in prisoner-of-war camps are also subjected to rape and other forms of sexual abuse, such as being stripped naked in public, subjected to genital violence or forced sterilization.”⁴³

d. Geneva Convention III, Art 14: Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men. Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

e. Geneva Convention III, Art 16: “Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.”

f. Geneva Convention IV (Civilians/Occupation) Art 27: “Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any

⁴³ ICRC, Updated Commentary on GC III: Commentary on the Geneva Conventions of 12 August 1949, Vol. III Geneva Convention Relative to the Treatment of Prisoners of War, para. 1578 (2020) [hereinafter Third Geneva Convention].

attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.”

g. Geneva Convention IV, Art 38: “Children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.”

h. Geneva Convention IV (Occupation) Art 50: “The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.”

i. Additional Protocol 1, Art 75: “5. Women whose liberty has been restricted for reasons related to the armed conflict shall be held in quarters separated from men’s quarters. They shall be under the immediate supervision of women. Nevertheless, in cases where families are detained or interned, they shall, whenever possible, be held in the same place and accommodated as family units.”

j. Additional Protocol 1, Art 76: *Protection of women*

(1) “Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.

(2) Pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict, shall have their cases considered with the utmost priority.

(3) To the maximum extent feasible, the Parties to the conflict shall endeavour to avoid the pronouncement of the death penalty on pregnant women or mothers having dependent infants, for an offence related to the armed conflict. The death penalty for such offences shall not be executed on such women”.

k. The Convention on Cluster Munitions, which entered into force on 01 August 2010, references both UNSCR 1325, the impact of cluster munition remnants on civilians, including women and children (preamble), and the need to take a gendered approach to victim assistance in for example Article 5, par. 1: “Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion. Each State Party shall make

every effort to collect reliable relevant data with respect to cluster munition victims.”

3. International Tribunals and the International Criminal Court (ICC).

a. While rape and other sexual violence were not expressly designated as a grave breach, several international criminal tribunals recognized that sexual violence could amount to grave breaches of the Geneva Conventions and their Protocols.

b. The Rome Statute and the International Criminal Court⁴⁴

(1) **Genocide.** In relation to article 6 of the Statute, and according to the Office of the Prosecution, “acts of rape and other forms of sexual violence may, depending on the evidence, be an integral component of the pattern of destruction inflicted upon a particular group of people, and in such circumstances, may be charged as genocide”.

(2) **Crime against humanity.** Article 7(1)(g) of the Rome Statute declares that “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” to be crimes against humanity. With the exception of forced pregnancy, these offences may be applicable to both sexes without distinction. Therefore, according to the Office of the Prosecution, under this article, sexual and gender-based crimes may be charged as crimes against humanity when they are committed “as part of a widespread or systematic attack directed against civilian populations” and “pursuant to or in furtherance of a State or organizational policy to commit such attack”.⁴⁵ “Persecution (...) on (...) gender grounds” is addressed separately in Article 7 (h) and can also amount to a crime against humanity. Finally, other crimes (including enslavement, torture, etc.) can also have gender and/or sexual elements⁴⁶.

(3) The Office of the Prosecution has noted that “gender-based crimes are not always manifested as a form of sexual violence. They may include non-sexual attacks on women and girls, and men and boys, because of their gender”.

4. International Human Rights Law (IHRL)

a. Human rights treaties, universal and regional, appear to be less explicit, specific, and precise than IHL treaties with regards to a gendered approach and protections particularly during armed conflict. Rare exceptions include the Convention on the Rights of the Child (1989) that provides that States Parties must protect children from all forms of sexual exploitation and sexual abuse. There are international human rights treaties to ensure equality and eliminate discrimination against women such as the United Nations Convention on the Elimination of All Forms of Discrimination against Women (1979). However, “violence against women has only recently been recognised as deserving of special attention by international

⁴⁴ It is important to remember that not all NATO members are party to the Rome Statute and the ICC.

⁴⁵ *ibid* [para.32].

⁴⁶ *ibid* [paras.18,34].

human rights law.”⁴⁷ In 1993, the United Nations General Assembly agreed the non-binding Declaration on the Elimination of Violence Against Women, which addresses gender-based violence in the private and in the state-controlled domain. Other initiatives have focused on trafficking in human beings.

b. As a regional example, both the European Convention on Human Rights (1950) and the European Social Charter (1961, revised in 1996) address gender-based and sexual violence. A number of related conventions and recommendations have been adopted subsequently by the Council of Europe, most significantly Recommendation Rec(2002)5 on protection of women against violence (2002), which includes stipulations regarding violence in conflict and post conflict situations, calling on Member States to: “68. penalise all forms of violence against women and children in situations of conflict, in accordance with the provisions of international humanitarian law, whether they occur in the form of humiliation, torture, sexual slavery or death resulting from these actions; 69. penalise rape, sexual slavery, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity as an intolerable violation of human rights, as crimes against humanity and, when committed in the context of an armed conflict, as war crimes; [...] 74. in post-conflict situations, promote the inclusion of issues specific to women into the reconstruction and the political renewal process in affected areas; [...]”

c. More generally, the non-derogable prohibition of torture or cruel, inhuman or degrading treatment or punishment contained in human rights treaties⁴⁸ provides a strong basis to prohibit virtually all forms of discrimination, gender-based, and sexual violence at all times. Indeed, case law of human rights bodies provide a number of concrete examples where sexual violence has been considered as amounting to torture or cruel, inhuman or degrading treatment or punishment. Finally, some specific gender-based and sexual violence can be encompassed into other human rights violations.

⁴⁷ Quote from <https://www.coe.int/en/web/gender-matters/united-nations>

⁴⁸ The ban of torture is found in a number of international treaties, including art. 2 of the UN Convention Against Torture, art. 7 of the International Covenant on Civil and Political Rights, art. 5 of the Universal Declaration of Human Rights, com. Art. 3 of the Geneva Conventions, art. 31 of the Fourth Geneva Convention, as well as codified in the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the American Convention on Human Rights.

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