

Putting Women's Rights into the Arms Trade Treaty



Acknowledgments

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Gender Action for Peace and Security is an expert working group of development, human rights, humanitarian and peacebuilding NGOs and practitioners. GAPS promotes, facilitates and monitors the meaningful inclusion of gender perspectives in all aspects of policy and practice on peace and security. Through research, campaigning and advocacy, GAPS works to bridge the gap between the realities of women (activists and non activists) in conflict affected countries and UK decision makers and practitioners.

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While international trade in consumer goods is highly regulated, the global trade in arms takes place in the absence of legally binding, robust and universally applicable criteria. The United Nations (UN) Diplomatic Conference on the Arms Trade Treaty in July 2012 provides a historic opportunity to create a global mechanism to control the arms trade.

In today's armed conflicts, the battlefield has moved into villages, towns and their surroundings. The majority of those killed and injured are civilians who are, in many cases, deliberately targeted. Mass displacement, use of child soldiers, violence against ethnic and religious groups, gender-based and sexual violence, other war crimes, and crimes against humanity, are common features of conflict.¹ After conflict, much violence, including gender-based violence continues.

To have real impact, a prospective Arms Trade Treaty must include legally binding criteria that prevent arms transfers to abusers of human rights or into situations where there is a substantial risk that they will undermine development or exacerbate armed violence.² The Arms Trade Treaty also needs to refer to gender-based armed violence in both the treaty text and criteria.

This report complements the call for the inclusion of gender-based violence within the Arms Trade Treaty by Amnesty International, IANSA Women's Network, Women's International League for Peace and Freedom and Religions for Peace International.³ It details the issue of gender-based violence and language needed in the treaty. It also sets out how the threshold to determine the risk of an arms transfer leading to the perpetration or facilitation of gender-based violence can be identified by licensing agencies and which mechanisms can promote women's rights as part of national-level implementation of the treaty.

Recommendation:

A criterion in the Arms Trade Treaty should require States not to allow an international transfer of conventional arms where there is a substantial risk that the arms under consideration will be used to perpetrate or facilitate acts of gender-based violence, including rape and other forms of sexual violence.

An unregulated arms trade and gender-based violence

According to the Committee on the Elimination of Discrimination of Women, “Wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures”.⁴

Instability and armed conflict lead to increases in armed violence, including gender-based violence. Indiscriminate forms of violence are often used as a weapon of war and deployed strategically to shame, demoralise, terrify and humiliate the enemy, with women and girls often viewed as the bearers of cultural identity.⁵ Gender-based violence is widespread, often systematic, and has been reported in all regions of the world from a variety of sources.⁶ For example, gender-based violence has been committed by armed groups including state security forces recently in Côte d’Ivoire and Guinea⁷ as well as by armed groups in Mali.⁸

Margot Wallström, former UN Special Representative of the Secretary-General (SRSG) on Sexual Violence in Conflict, has stated that in many conflicts, “rape is a front line.”⁹ Rape is often highly stigmatised, with survivors often shunned from communities and at times abandoned by their spouses.

“With the sexual violence, a large number began to flee because they found themselves unable to resist when confronted with a weapon, and when they were tied up or killed in order to intimidate the women into yielding easily.”¹⁰

Democratic Republic of Congo (DRC)

The brutality of sexual violence in areas such as Eastern DRC has been well documented, with reports of young girls and elderly women being tortured and violently raped as a tactic of armed groups to assert power and domination. The results are devastating as survivors face multiple psychological and medical problems including HIV and other sexually transmitted infections, pregnancy, infertility and genital mutilation.

Conflict-affected communities experience sexual violence as a threat to their security and well-being, and increasingly report sexual violence against men and boys. This includes armed groups forcing men and boys to commit such acts against family members.¹¹

*“We found them in our house. They pillaged everything. They put my husband on the bed and beat him. Then two of the soldiers raped me. This story is so tragic – I can’t believe this happened to me. I prefer death instead of life. Now, the world is without me because of my situation”.*¹²

During Colombia’s 50-year armed conflict, sexual violence has been used as a weapon of war as routine practice by all of the armed groups: state military forces, paramilitaries and guerrillas. Women have become targets for many reasons such as defying prohibitions imposed by a group, transgressing gender roles and as a means to humiliate the enemy.¹³ Lack of reporting makes it difficult to know exactly how many women have suffered sexual violence during Colombia’s protracted conflict, but the Inter-American Commission on Human Rights, the UN Special Rapporteur on Violence Against Women, Colombia’s Constitutional Court and national and international organisations agree that sexual violence targeting women and girls is employed in a systematic and generalised manner in the conflict.¹⁴

The impunity remains as women are unable to report violations in the absence of legal guarantees and confidence in state institutions. The acceptance of this violence as ‘normal’ within conflicts means many survivors do not realise that sexual violence is a crime.¹⁵

Violence and the position of women

The Beijing Platform for Action noted that, *“while entire communities suffer the consequences of armed conflict and terrorism, women and girls are particularly affected because of their status in society and their sex”.*¹⁶

The unequal status of women and girls continues across the world in formal legislation and institutions and in informal attitudes and beliefs. Where cultures of violence and discrimination against women and girls exist prior to conflict, they can be exacerbated during conflict as an extreme manifestation of the abuse women face in peacetime.¹⁷

Some groups of women may be more vulnerable than others in times of conflict. In Colombia, Afro-Colombian and indigenous women are the most vulnerable to sexual violence given the triple discrimination they face due to their gender, ethnicity and the poverty in which they live.¹⁸

Women with disabilities may experience higher rates of gender-based and sexual violence in conflict.¹⁹ In addition, women who experience multiple levels of

discrimination are more likely to be excluded from decision-making processes. As a result, their needs are less likely to be addressed.

Women also play a role in conflicts voluntarily as combatants themselves, and at other times are forcibly recruited and abused by armed forces.

In 2000, the Security Council expressed concern that *“civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements”* and recognised that *“an understanding of the impact of armed conflict on women and girls, effective institutional arrangements to guarantee their protection and full participation in the peace process can significantly contribute to the maintenance and promotion of international peace and security”*.²⁰

Gender-based violence is an umbrella term for any harmful act that is perpetrated against a person’s will, and that is based on socially ascribed (gender) differences between males and females. Gender-based violence encompasses a range of human rights violations and includes, but is not limited to, forced marriage, attacks against women’s human rights defenders, other harmful traditional practices and sexual violence (including rape, sexual slavery, trafficking, forced impregnation, forced abortion, forced sterilisation, forced prostitution, indecent assault, inappropriate medical examinations, strip searches and sexual harassment). It can be directed at women, men, girls and boys, but is more often directed against women and girls and is linked to women’s subordinate status in society.

The **UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** prohibits all forms of discrimination against women.²¹

General Recommendation 19²² of the Committee on the Elimination of Discrimination against Women defines gender-based violence as *“violence that is directed against a woman because she is a woman or that affects women disproportionately”* and recognises gender-based violence as violence that impairs women’s enjoyment of human rights including:

- the right to life,
- the right not to be subjected to torture or ill-treatment,

- the right to equal protection under humanitarian law in times of armed conflict,
- the right to liberty and security of the person,
- the right to equal protection before the law,
- the right to equality in the family,
- the right to the highest standard attainable of physical and mental health, and
- the right to just and favourable conditions of work.

Violence within the home

Much of the armed violence that affects women – both in and out of conflict – is committed with small arms.²³ After conflict ends, gender-based violence can still persist. Even in non-conflict situations, studies suggest the risk of being murdered by an intimate partner increases with the availability of firearms.²⁴

Within the household, arms can be used to commit violence by intimate partners and friends. This can increase during conflict as sanctions against men's violence break down, and women's social and economic vulnerability increases.²⁵ Research from the conflict in Northern Ireland demonstrates that the increased availability of guns meant more dangerous acts of violence were committed against women in the home.²⁶

A study from a hospital in Eastern DRC demonstrates how acts of rape by armed combatants led to increased adoption of rape by civilian populations, suggesting the normalisation of rape throughout the conflict.²⁷

Women affected as displaced populations

Sexual violence is a major cause of displacement in armed conflict. It is used as a tactic to force civilians to flee from their homes. In Colombia, two in ten women reported they were forced to flee because of these crimes in 2008.²⁸ Sexual violence also remains a threat during displacement. In 2005, 36 percent of displaced women were forced to have sexual relations with strangers in Colombia.²⁹

Money spent on arms is diverted from money spent on development

International arms transfers can impair poverty reduction and socio-economic development when they contribute to armed violence, serious human rights violations, facilitate gender-based violence, undermine peacebuilding efforts and involve excessive unaccountable spending or corrupt practices. Spending on arms can divert vital funds from public services such as education and health and undermine the achievement of sustainable development.³⁰ Since the establishment of the UN system, there has been a commitment to minimise the diversion of money to arms away from development.³¹

Under the Beijing Plan of Action, States agreed to reduce military expenditure and control the availability of arms to ensure sufficient funding for development, including women's empowerment.³²

What can the Arms Trade Treaty do to prevent armed gender-based violence?

To ensure the Arms Trade Treaty is effective, it must recognise and address the negative impact of the arms trade on women's rights in line with the commitments of all members of the UN under human rights and humanitarian law, including the Geneva Conventions, international treaties such as CEDAW, regional treaties such as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and existing UN Security Council Resolutions on Women, Peace and Security.³³

Under these frameworks, States are obliged to protect women from armed violence and gender-based violence, and take action in response.

Language needed in the treaty

It is essential that the parameters and criteria of the Arms Trade Treaty clearly prohibit arms transfers where there is a risk of serious violations of international human rights law, international humanitarian law or international criminal law.

This provides a legal basis by which these violations include the use of arms to perpetrate or facilitate acts of gender-based violence.

However, given the widespread nature of this devastating phenomenon, both in and out of conflict, the Arms Trade Treaty must go further and explicitly recognise the negative impact to date of the unregulated arms trade on women's rights. It must ensure States take specific steps to prohibit an arms transfer if there is a substantial risk those arms will be used to perpetrate or facilitate acts of gender-based violence, by reflecting and prioritising this issue within risk assessments.

The treaty must therefore do the following:

- **Explicitly recognise that absence of international standards for the transfer of conventional arms and their diversion to the illicit market has led, among other things, to gender-based violence, which extends beyond situations of violent conflict. It should recognise the negative impact of armed conflict in undermining women's rights and gender equality.**

- **Include a criterion that ensures States shall not allow an international transfer of conventional arms where there is a substantial risk that the arms under consideration will be used to perpetrate or facilitate acts of gender-based violence, including rape and other forms of sexual violence.**

International human rights law, which applies both during and out of armed conflict:³⁴

- prohibits gender-based discrimination at all times,³⁵
- protects the right to life (no one may be arbitrarily deprived of life) at all times,³⁶
- prohibits torture and other cruel, inhuman or degrading treatment or punishment, including rape and sexual attacks, at all times,³⁷ and
- requires States to suppress all forms of trafficking in women and exploitation of prostitution of women.³⁸

International humanitarian law, which applies in armed conflicts:

- prohibits targeting civilians, indiscriminate attacks, and disproportionately or unnecessarily harming civilians when attacking military objectives,³⁹
- prohibits acts such as torture, rape, outrages on personal dignity (including enforced prostitution and indecent assault), and cruel and humiliating treatment, and⁴⁰
- provides that protected persons during situations of occupation are to be humanely treated at all times and to be treated without adverse distinction based on race, colour, sex, language, religion, opinion, national or social origin, wealth or birth.⁴¹

In times of crisis and armed conflict, gender-based violence may become more extreme, systematic and widespread. Conflict-related sexual violence has been recognised as one of the most serious international crimes. The International Criminal Tribunal for Rwanda made a landmark judgement of rape and sexual violence as genocide in 1998⁴² and in 2001 the International Criminal Tribunal for the former Yugoslavia made the first conviction for rape and enslavement as crimes against humanity. The Rome Statute of the

International Criminal Court recognises rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity as crimes against humanity and war crimes.⁴³ It states that the crime of rape applies to situations in which a woman provides sex to avoid harm, to obtain the necessities in life, or for other reasons that have deprived her of her ability to consent. Trafficking and gender-based persecution are included as a crimes against humanity.⁴⁴

War crimes, genocide, crimes against humanity and torture are *jus cogens* norms,⁴⁵ that is, customary norms of international law that are universal during peace and in war, from which there is no derogation,⁴⁶ and in response to which all States have the obligation to prosecute or extradite suspected perpetrators, whoever they are and wherever the crime took place.

Key considerations for licensing agencies on authorising arms transfers

The aim of the application of international human rights law, international humanitarian law and international criminal law criteria is to create a more responsible trade in conventional arms. In order to do so, decision-making on transfer authorisation taking into account human rights and humanitarian obligations as a means of *preventing* serious violations of human rights and humanitarian law is needed. Where there is credible and reliable information indicating a clear risk that arms will be used to commit violations, transfer of arms should not take place until the risk has been curtailed.

These questions need to be complemented with specific questions that enable States to take a meaningful assessment of the risk that the arms under consideration for transfer will be used to perpetrate or facilitate acts of gender-based violence, including rape and other forms of sexual violence. Identifying that level of risk should be determined by undertaking a case-by-case analysis of the recipient and an overall assessment of the recipient's respect and promotion of international human rights instruments, international humanitarian law and particularly commitments to instruments and processes on the rights of women, including those that prevent gender-based violence.

*While all gender-based violence is unlawful and the primary legal responsibility of the importing State to address, it is when transfers of conventional arms are made where there is a substantial risk of violations, that the special machinery of the Arms Trade Treaty should be engaged: that is, where a proposed end user of an export, import or international transfer of conventional arms is under consideration for engaging in harmful activity, or for failing in their duty to prevent persistent or pervasive violations resulting in gender-based violence through the use of arms.*⁴⁷

What measures can states take to protect against gender-based violence?

- Existence of a legal framework for the protection of women's right to live without violence or discrimination in line with international standards.
- Implementation of these laws in reality.

- Zero tolerance to gender-based violence – commitment to train all civilian and military personnel in security forces on gender-based violence, investigate these types of crimes, bring cases to trial, sanction those found responsible and compensate victims through accountable judicial systems and police forces.
- Judicial systems that incorporate protections and privacy rules when survivors report gender-based violence both in times of peace and armed conflict.
- Space for civil society to work on the defence of human rights.
- Public policy and practice that give women the right to truth, justice and reparation.
- Integrated public policy for survivors of sexual violence relating to health, education and employment (backed with financial resources).

The UN Declaration on the Elimination of Violence against Women declares that states *“should exercise due diligence to prevent, investigate and in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or private persons”*.⁴⁸

The UN Special Rapporteur on violence against women has expanded on this and stated that this obligation to promote and protect the human rights of women and exercise due diligence means that States should do the following:

- Prevent, investigate and punish acts of all forms of violence against women whether in the home, the workplace, the community or society, in custody or in situations of armed conflict.
- Take all measures to empower women and strengthen their economic independence and to protect and promote the full enjoyment of all rights and fundamental freedoms.
- Condemn violence against women and not to invoke custom, tradition or practices in the name of religion or culture to avoid their obligations to eliminate such violence.
- Intensify efforts to develop and/or utilise legislative, educational, social and other measures aimed at the prevention of violence, including the dissemination of information, legal literacy campaigns and the training of legal, judicial and health personnel.⁴⁹

These questions should be considered as supplementary to the broader considerations detailed in the practical guides which have been developed on international humanitarian law, international human rights, sustainable development and national implementation, and a subset of the full considerations that should be taken as listed in the full Arms Trade Treaty criteria.⁵⁰

1. Case-by-case assessment

Past and present record of respect for human rights and humanitarian law

- Has the recipient been engaged in armed violence which has resulted in human rights or humanitarian law abuses, including the perpetration or facilitation of acts of gender-based violence? Is the recipient known to have abducted girls and women into the armed forces or armed groups for the purposes of sexual exploitation? Has the recipient engaged in the trafficking of women and girls? Is gender-based violence encouraged, explicitly or implicitly, by commanders as a military tactic? Does the recipient operate in a context of high rates of domestic violence? Has the recipient been listed within UN SRSG on Sexual Violence in Conflict reporting mechanisms as a party to armed conflict credibly suspected of patterns of sexual violence?
- Are any foreseeable future events likely to create conditions that would increase the risk of the perpetration or facilitation of gender-based violence? If violations have been committed a long time ago or recently and there has been no meaningful change in circumstances (such as a change in the political system), there is a risk these violations could continue. Any risk of a change in government or authority structures leading to a change in the recipient's willingness to respect international humanitarian law and international human rights law should be assessed with specific consideration given to the risk of gender-based violence.
- If gender-based violence and other human rights and humanitarian law abuses have been committed, has the recipient taken measures to investigate these violations, cause them to cease and punish those responsible? For example, has a state investigated gender-based violence committed by armed forces or by nationals in its territory? When violations occur, are steps taken to stress that this is not an acceptable military practice and to challenge and change cultures of

impunity? For example, have disciplinary or penal sanctions been taken or public expressions of regret been made after the perpetration of gender-based violence? Are incidents of gender-based violence increasing or decreasing? Are more survivors feeling able to come forward to report?

The nature of conventional arms

- Is there a risk that the type of arms in question could be used for serious violations of humanitarian law, human rights or gender-based violence, for example with widespread availability of small arms and light weapons and ammunition?

Risk of diversion

- Have arms or military equipment previously been transferred or diverted from this recipient to a third party where there was a risk they would be used or were used for violations of humanitarian and human rights law, such as to commit gender-based violence? Does the recipient have the capacity to ensure arms are used in a manner consistent with international humanitarian and human rights law and are not diverted or transferred to other destinations where they may be used to commit violations? Will the recipient agree not to transfer equipment to a third party without the express authorisation of and information provided to the supplier state?

Impact on development

- Is there a risk that the proposed transfer of arms would undermine poverty reduction and socio-economic development, including women's empowerment?

2. Overall assessment

This case-by-case assessment should be complemented with overall assessment of the following questions:

Cooperation

- Has the recipient been investigated by independent parties that seek to investigate reports of gender-based violence e.g. human rights organisations, UN treaty bodies, the SRSG on Sexual Violence in

Conflict, commissions of inquiry etc., ad hoc tribunals, the International Criminal Court? If so, has the recipient cooperated with investigation? What was the outcome? Has it implemented their recommendations?

- Has the recipient of the transfer cooperated with other States and international courts and regional human rights mechanisms on cases of gender-based violence?

Formal Commitments

- Has the State made formal commitments to ratify and apply the rules of international humanitarian law and international human rights law contained in instruments such as the Geneva Conventions and their Addition Protocols, International Covenants on Civil and Political and Economic, Social and Cultural Rights, CEDAW, the Rome Statute establishing the International Criminal Court and regional treaties such as the European Convention on Human Rights, the African Charter on Human and People's Rights including the Maputo Protocol to the African Charter or the American Convention on Human Rights?
- Does the country in question have a national action plan for the promotion of women's rights or gender equality or on the implementation of Women, Peace and Security commitments?
- If the recipient is an armed group, has it committed itself to respect humanitarian and human rights law through a unilateral declaration or agreement including committing itself to upholding women's rights and the prevention of gender-based violence?

Implementation

- Has the State adopted the implementation measures required by human rights instruments, including by adopting national legislation and regulations relating to gender-based violence?
- Is there a legal framework for the protection of women's and men's right to live without violence or discrimination in line with international standards? For example, does domestic law criminalise gender-based violence, including rape, sexual harassment, and domestic violence? Is gender-based violence not only criminalised but also prosecuted?
- Are national policies and plans around women's rights adequately resourced? Is the promotion of women's rights a key element of public policy?

- Is the recipient State making a concerted effort to track instances of gender-based violence through a systematic approach to sex-disaggregated data and associated service provision for survivors? Are medical and legal services in place for survivors of gender-based violence both in and out of conflict?
- Are women's voices present in all processes leading up to, and concluding in, conflict negotiations? Are women represented in all levels of political structures and decision making? Is gender-based violence on the agenda in peace negotiations?⁵¹

Judicial and administrative measures

- Is there a competent impartial and functioning judicial system and administrative system in the recipient country for prosecuting serious human rights and humanitarian law violations, including instances of gender-based violence?
- Does the recipient state have legislation and procedures in place to allow for investigation into human rights abuses and violations by the State and its agents? Are these procedures sensitive to the need to investigate and act against gender-based violence and staff trained in ways to interview survivors, for example in women-only settings and to mitigate the risk of re-victimisation?
- Do judicial structures at national, local and community levels operate around principles of equality between women and men? Are crimes against women viewed as seriously as crimes against men? Are gender-sensitive legal provisions in place related to the participation and protection of witnesses and victims?
- Are measures in place to ensure the participation of women within legal and judicial structures, including at community level e.g. in 'traditional' or 'tribal' courts?
- Does infrastructure exist to bring human rights violators to justice and provide remedy and reparation to victims? Is there a record of providing full reparation to victims in a non-gender-discriminatory way? Is there a record of providing full reparation to survivors of gender-based violence?

Dissemination and capacity

- Does the recipient operate under clear and accountable lines of control and do they have the capacity and record to uphold

international humanitarian law, international human rights law and the prevention of gender-based violence?

- Does the recipient educate and train its security services and police and justice systems in the content and application of international law, including the *jus cogens* norms regarding gender-based violence? If the recipient is an armed group, is this training provided to those across command hierarchies? Has the recipient taken positive steps to prevent its forces committing gender-based violence, for example, by ensuring a zero tolerance approach is stressed during training and during operations?
- Are measures in place to ensure the participation of women in security and police forces?
- Have humanitarian and human rights law, including the rights of women, been integrated into military doctrine, rules of engagement and instructions? Are requirements in place for military commanders to prevent and suppress gender-based violence by those under their control?
- Do legal advisors trained in human rights, humanitarian law and gender equality advise armed forces?
- Are penal sanctions in place for cases of human rights or humanitarian law violations by armed forces, including specific steps to ensure cases of gender-based violence by armed forces are sanctioned?
- Where arms are going to non-state actors, have measures been taken to ensure arms will be used in accordance with human rights and humanitarian law norms, not in violation of women's rights and not used to perpetrate or facilitate acts of gender-based violence such as through distribution of codes of conduct, rules of engagement and public statements?

Accountable governance structures

- Are there monitoring bodies and national institutions for the promotion and respect for human rights? Are they robust and independent? Are these specifically monitoring gender-based violence? Is there a record of impunity for human rights violators?
- Are accountability mechanisms in place to ensure respect for women's rights? Is civil society able to operate within this space? Are there attacks and reprisals against women's human rights defenders?

Sources of Information

The following sources of evidence can be used to determine the overall record of respect and case-by-case assessment to determine the level of risk of the arms transfer leading to the perpetration or facilitation of acts of gender-based violence:

- Documentation from UN human rights bodies and other international and regional bodies such as ICRC, including office of the SRSG on Sexual Violence in Conflict (including the UN Secretary-General's annual report on sexual violence and listed armed groups).
- Reports from UN agencies, INGOs and local NGOs.
- Reliable media.
- Diplomatic missions.
- Open and closed source information from international agencies operating in the recipient State.
- Human rights reports by States, including human rights commissions reports and reports to the CEDAW Committee.
- Policies and budgets related to women's rights, National Implementation Plans to UN Security Council Resolution 1325 and other Women, Peace and Security frameworks in addition to formal annual reviews and assessments.
- Shadow reports written by civil society relating to women's rights and gender-based violence frameworks, such as those accompanying CEDAW and Human Rights Committee reporting and shadow UN Security Council Resolution 1325 assessments.
- Reports from independent human rights commission if present.
- Reports from the Ministry of Women's Affairs or Ministry of Gender Equality, if present.
- Judgements and reports by national and international courts and tribunals.
- Research by academic, research and policy institutions and women's rights organisations.
- Military doctrine, manual and instructions.

What mechanisms should be put in place for national implementation to promote women's rights?

All implementation provisions and mechanisms of the treaty need to take steps to promote gender equality. Suggested measures include the following:

- States should **formally consult with women's rights organisations** and civil society to assess treaty implementation at the national level. States should also use consultations with women's rights groups to incorporate their expertise, for example around data collection, within national licensing authorities and assistance programmes.
- **Establish gender-sensitive national oversight mechanisms to assess implementation**, for example, parliamentary oversight mechanisms to review the risk assessments and decisions made by national licensing authorities relating to the risk of arms under consideration for transfer being used to perpetrate or facilitate acts of gender-based violence., This should include the participation of women.
- **Ensure international co-operation and assistance is gender-sensitive.** Integrate capacity-building around effective systems to measure the risk of arms under consideration for transfer being used to perpetrate or facilitate acts of gender-based violence as a component of international co-operation and assistance programmes.

Endnotes

- ¹ See for instance United Nations (2002), *Women, Peace and Security*, available at <http://www.un.org/womenwatch/daw/public/eWPS.pdf>.
- ² Oxfam International (2012), *The Devil is in the Detail*, available at <http://www.oxfam.org/sites/www.oxfam.org/files/tb-devil-detail-arms-trade-treaty-030512-en.pdf>.
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- ⁴ Committee on the Elimination of Discrimination of Women General Recommendation No. 19 (1992), paragraph 16, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>.
- ⁵ Harvard Humanitarian Initiative and Oxfam International (2010), *Now the World is Without Me*, p.1, available at <http://www.oxfam.org/sites/www.oxfam.org/files/DRC-sexual-violence-2010-04.pdf>; United Nations (2002), *Women, Peace and Security*, p.2.
- ⁶ Amnesty International (2005) *Making Rights a Reality*, p.3.
- ⁷ Amnesty International et al. (2012), *The Arms Trade Treaty: Securing Women's Rights and Gender Equality*; Amnesty International (2008), *Blood at the Crossroads: Making the Case for an Arms Trade Treaty*; Amnesty International (2010), *Guinea: "They Ripped off my Clothes with Their knives and Left Me Completely Naked" Voices of Women and Girls Victims of Sexual Violence*, AFR 29/002/2010.
- ⁸ Amnesty International (2012), *Mali: Five Months of Crisis*, pp.14-15.
- ⁹ Margot Wallström, United Nations Radio, 6th August 2010.
- ¹⁰ Commission Territoriale pour la Lutte contre les Violences Sexuelles in Walungu in International Alert (2010), *The War Is Not Yet Over: Community Perceptions of Sexual Violence and its Underpinnings in Eastern DRC*, p.22.
- ¹¹ Oxfam International (2012), Internal Document, *Protection Review Conclusions*.
- ¹² A 27-year old mother of three children who was raped in Democratic Republic of Congo in June 2002 and subsequently abandoned by her husband, in Harvard Humanitarian Initiative and Oxfam International (2010) *Now, the World is Without Me*, p. (i).
- ¹³ Oxfam International (2009), *Sexual Violence in Colombia*, p.12 available at <http://www.oxfam.org/sites/www.oxfam.org/files/bp-sexual-violence-colombia.pdf>.
- ¹⁴ Ibid. pp.2-3.
- ¹⁵ Ibid. p.3.
- ¹⁶ Beijing Platform for Action (1995), paragraph 135, available at <http://www.un.org/womenwatch/daw/beijing/platform/>
- ¹⁷ UN (2002), *Women Peace and Security*, p.2; Control Arms et al. (2003), *The Impact of Guns on Women's Lives*, p.2.
- ¹⁸ Oxfam International, 'Sexual Violence in Colombia', p.3.
- ¹⁹ Center for Women Policy Studies (2011), *Right Now! Women with Disabilities Build Peace Post Conflict*, available at http://www.centerwomenpolicy.org/programs/waxmanfiduccia/documents/BFWFP_RightNow_WomenwithDisabilitiesBuildPeacePost-Conflict_StephanieOrtoleva.pdf.
- ²⁰ United Nations Security Council Resolution 1325 (2000). See www.peacewomen.org.
- ²¹ CEDAW (1979).
- ²² CEDAW Committee, General Recommendation No. 19, Violence Against Women, UN Doc. A/47/38 (January 1992).
- ²³ Amnesty International (2004), *Stop Violence Against Women*, p.50.
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- ²⁵ Pickup et al (2000), *Ending Violence against Women: A Challenge for Humanitarian and Development Work*, p143 available at <http://policy-practice.oxfam.org.uk/publications/ending-violence-against-women-a-challenge-for-development-and-humanitarian-work-115387> p142.
- ²⁶ Ibid.p.143; Kelly, R (1996) *Wars Against Women: Gender, Heterosexuality, Militarism and the State*, paper presented at the Political Studies Association conference, Engendering Conflict, London School of Economics.
- ²⁷ Harvard Humanitarian Initiative and Oxfam International (2010), *Now, the World is Without Me*.
- ²⁸ According to the People's Defence Office (2008), or Defensoría del Pueblo, report "*Promoción y monitoreo de los derechos sexuales y reproductivos de mujeres víctimas de desplazamiento forzado con énfasis en violencia intrafamiliar y sexual*," (Promotion and Monitoring of the Sexual and Reproductive Rights of Women Victims of Forced Displacement with emphasis on Sexual and Domestic Violence).

Endnotes

- ²⁹ Oxfam International, 'Sexual Violence in Colombia', p.3.
- ³⁰ Oxfam International (2009), *Practical Guide: Applying Sustainable Development to Arms-Transfer decisions*, p.1.
- ³¹ Article 26 United Nations Charter: "In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments", available at <http://www.un.org/en/documents/charter/chapter5.shtml>.
- ³² Beijing Platform for Action, paragraph 143b.
- ³³ Including United Nations Security Council Resolution (UNSCR) 1325 (2000) on women's role in political decision-making and peace processes and UNSCR 1820 (2008) which stresses widespread and systematic sexual violence as a threat to international security in addition to resolutions 1888 (2009), 1889 (2009) and 1960 (2010). See www.peacewomen.org.
- ³⁴ As held by the International Court of Justice in the Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons (1996) para 25, Advisory Opinion on the Construction of a Wall in the Occupied Palestinian Territory (2004) para 106-113 and DRC v. Uganda (2005) para 216 and recognised by the UN Human Rights Committee in General Comment No 31 (2004) para 11.
- ³⁵ See for instance Articles 2(1), 3, 4(1), 23(4), 24 and 26 of ICCPR; UN Convention on the Elimination of All Forms of Discrimination against Women 1979.
- ³⁶ See for instance Articles 6(1) and 4(2) of the ICCPR.
- ³⁷ See for instance Articles 7 and 4(2) of the ICCPR, Articles 1, 2 and 16 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984.
- ³⁸ Article 6 CEDAW.
- ³⁹ See for instance Articles 48-58 of the Protocol Additional to the Geneva Conventions of 1949, and relating to Protection of Victims of International Armed Conflicts (Additional Protocol I, 1977).
- ⁴⁰ See for instance Article 3(1) common to all four Geneva Conventions, Article 17 of Geneva Convention III relative to the Treatment of Prisoners of War (1949), Articles 5, 27, 32, 37 of Geneva Convention IV relative to the Protection of Civilian Persons in time of War (1949); Articles 75(2)(a)(ii); 75(2)(b); 75(2)(e) of Additional Protocol I, Articles 4(2)(a), 4(2)(e), 4(2)(h) of Protocol II Additional to the Geneva Conventions (1949) and relating to Protection of Victims of Non-International Armed Conflicts (Additional Protocol II, 1977).
- ⁴¹ Article 75(1) Additional Protocol I (1977); Article 27 Geneva Conventions IV 1949; Article 72 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977 (Additional Protocol I 1977).
- ⁴² "[s]exual violence was a step in the process of destruction of the [T]utsi group - destruction of the spirit, of the will to live, and of life itself": *The Prosecutor v. Jean-Paul Akayesu (Trial Judgement)*, ICTR-96-4-T, International Criminal Tribunal for Rwanda (ICTR), 2 September 1998.
- ⁴³ Article 7(1)(g); Article 8(2)(b)(xxii); Article 8(2)(e)(vi).
- ⁴⁴ Article 7(2)(c).
- ⁴⁵ Article 19, ICL Draft Articles on State Responsibility; *Prosecutor v. Furungzija* (ICTY, 1998), Zoran Kupreskic et al.
- ⁴⁶ Article 53, Vienna Convention on the Law of Treaties 1969.
- ⁴⁷ Amnesty International et al., *The Arms Trade Treaty: Securing Women's Rights and Gender Equality*.
- ⁴⁸ Article 4 (1993).
- ⁴⁹ Radhika Coomaraswamy, Special Rapporteur on violence against women, Report to the Commission on Human Rights, UN Doc. E/CN.4/2003/75 (2003), para 85.
- ⁵⁰ See for example Amnesty International (2008), *How to Apply Human Rights Standards to Arms Transfer Decisions*; International Committee of the Red Cross (2007), *Arms Transfer Decisions; Applying International Humanitarian Law Criteria*; Oxfam International, *Applying Sustainable Development Criteria*; Saferworld (2010), *National Implementation of the Proposed Arms Trade Treaty: A Practical Guide*.
- ⁵¹ United Nations Department of Political Affairs (2012), *Guidance for Mediators: Addressing Conflict Related Sexual Violence in Ceasefire and Peace Agreements*, available at http://www.un.org/wcm/content/site/undpa/main/issues/sexual_violence.