Central and Eastern European Regional Training on the Gender-based Violence (GBV) Criteria in the Arms Trade Treaty (ATT)

14 - 16 May 2019

Riga, Latvia
Training Sessions

Overview of the ATT

This session will explore the consequences of irresponsible and illicit arms transfers and the motivations behind the ATT. The goal is to understand the history, context and purposes of the ATT.

Guiding Questions:

- What were the motivations behind the ATT’s negotiation?
- What does the ATT seek to achieve?
- How does it seek to achieve this?

Readings:

- 2013 Arms Trade Treaty (entire document)

The ATT in International Law

This session will situate the ATT in the humanitarian disarmament, with a focus on international human rights law, international humanitarian law, counter-terrorism and transnational organized crime obligations. It will also address other frameworks, including the European Union Common Position on Arms Export Controls and Programme of Action on Small Arms and Light Weapons.

Guiding Questions:

- What is “humanitarian disarmament”?
- How does humanitarian disarmament relate to international humanitarian law (IHL) and international human rights law (IHRL)?
- What provisions of the ATT are especially relevant to IHL, IHRL, counter-terrorism, and transnational organized crime? What do those fields of law require?
- What is the relationship between the ATT and other instruments, such as the

Readings:

- International Committee of the Red Cross, Understanding the Arms Trade Treaty from a Humanitarian Perspective, 2017 (extracts)
- International Committee of the Red Cross, “What is International Humanitarian Law?” 2004 (extracts)
**Gender and Gender-Based Violence**

This session will provide definitions and shared understandings of gender and GBV conceptually, as well as discuss the global ubiquity and prevalence of GBV.

**Guiding questions:**

- Why is it important to understand exactly what gender and GBV are?
- How can you know if an act of violence is GBV or unrelated to gender?
- Why might GBV be underreported globally? What are some ways that States’ laws and policies discourage reporting of GBV? How could these laws and policies change in order to encourage reporting of GBV?

**Readings:**

- World Health Organization, “Gender, Women and Health: What do we mean by ‘sex’ and ‘gender’?” 2019 (entire document)
- Stanford University, “What is the difference between sex assigned at birth and gender identity?” (entire video)
- Control Arms, How to use the Arms Trade Treaty to address Gender-Based Violence: A Practical Guide for Risk Assessment, 2018 (extracts)
- Reaching Critical Will, Preventing Gender-based Violence through Arms Control, 2016 (extracts)
- The United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences, 15 Years of the United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences, 2009 (extracts)

**ATT Implementation and GBV Reduction and Prevention**

This session will explore how the arms trade and GBV are linked. We will discuss how effective implementation of the ATT can lead to a reduction in the prevalence of GBV.

**Guiding Questions:**

- How are the arms trade and GBV linked? What types of examples can you think of?
What are the ways in which effective ATT implementation could help address GBV?

Readings:

- Control Arms, *How to use the Arms Trade Treaty to address Gender-Based Violence: A Practical Guide for Risk Assessment*, 2018 (extracts)
- Women's International League for Peace and Freedom, *Preventing Gender-Based Violence Through Arms Control: Tools and guidelines to implement the Arms Trade Treaty and UN Programme of Action*, 2016 (extracts)

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**International Law and Policy and Gender-Based Violence**

This session will address the linkages between Article 7(4) of the ATT and other areas of international law and policy, including WPS, SDGs.

Guiding questions:

- What is the relationship between the SDGs and GBV?
- How can arms controls measures help further the SDGs?
- What are the main gender-related critiques of the UNPoA?
- How does the WPS agenda inform GBV policy?

Readings:

- *Sustainable Development Goals* (extracts)
- *UNSC Resolution 1325 on Women, Peace and Security* (highlighted extracts)
- Reaching Critical Will, *Small Arms, Big Harms: A Call to Action by Civil Society On Gender and Small Arms Control*, 2018 (entire document)
Introduction to Article 7 Risk Assessment and its relationship with Articles 6 and 11

This session will describe the Article 7 risk assessment process and the Control Arms, ICRC, and IHRC interpretations of the requirements of Article 7. It will also provide a brief overview of Articles 6 and 11 of the ATT. We will discuss sharing national experiences conducting the Article 7 risk assessment.

Guiding Questions:

- How have states been conceiving of their obligations under Article 7?
- How have states been conducting the risk assessment?
- How do the IHRC and ICRC papers propose that states conduct the Article 7 risk assessment, with a particular focus on IHRL and IHL?
- What exactly does the Article 7 risk assessment entail?

Readings:

- International Committee of the Red Cross, International Humanitarian Law and Gender-Based Violence in the Context of the Arms Trade Treaty," April 2019 (entire document)
- Reaching Critical Will, Article 7(4) in the ATT (video)

Gender-Based Violence in Articles 6 and 7

This session will involve interactive discussions on the practical application of the risk assessment, as well as discussion on national experiences of including GBV in Article 6 process and the Article 7 risk assessment.

Guiding Questions:

- How does Article 7(4) fit within the Article 7 risk assessment?
- How do states understand their GBV obligations under Article 7?
- How does GBV relate to the Article 7 risk assessment, as well as Articles 6 and 11?

Readings:

- International Committee of the Red Cross, International Humanitarian Law and Gender-Based Violence in the Context of the Arms Trade Treaty," April 2019 (entire document – read on day one)
- Reaching Critical Will, “Preventing Gender-Based Violence Through Arms Control,” 2016 (extracts)
**Covered Arms and Gender-Based Violence**

This session will outline the range of weapons covered by the ATT, particularly those that can be used to commit or facilitate acts of GBV, with examples.

Guiding questions:

- What kind of arms are covered in the ATT?
- How can different types of arms be used to commit or facilitate acts of GBV?

Readings:

- Reread Article 2 of the ATT

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**Building an Evidence Base on Gender-Based Violence**

This session will provide an overview of how to build an evidence base on GBV in different contexts. We will address the challenges involved in conducting robust research on GBV.

Guiding questions:

- What are the main challenges and possible solutions to constructing an evidence base on GBV in different contexts?
- How has your country usually approached GBV reporting?

Readings:

- Control Arms, *How to use the Arms Trade Treaty to address Gender-Based Violence: A Practical Guide for Risk Assessment*, 2018 (extracts)
- United Nations, *Indicators to measure violence against women* (extracts)

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**Mitigating Measures**

This session will critically assess the potential efficacy and feasibility of different examples of mitigating measures, as well as discuss how measures sometimes simply cannot mitigate the risk of Article 7 harms.

Guiding questions:

- What might mitigating measures look like and how might they be implemented? Are they laws, policies, guidance documents, etc.? What might be the costs and benefits of each of these approaches?
What could make a mitigating measure effective?
Why might some mitigating measures be ineffective in certain contexts? Are there certain contexts where no measures could effectively mitigate the risks of a serious violation of IHL or IHRL?

Readings:

- Amnesty International, Applying the Arms Trade Treaty to Ensure the Protection of Human Rights, 2015 (extracts)
- Control Arms, How to use the Arms Trade Treaty to address Gender-Based Violence: A Practical Guide for Risk Assessment, 2018 (extracts)
Links to Specific Sessions

- Overview of the ATT
- The ATT in International Law
- Gender and Gender-Based Violence
- ATT Implementation and GBV Reduction and Prevention
- International Law and Policy and Gender-Based Violence
- Introduction to the Article 7 Risk Assessment
- Gender-Based Violence in Articles 6 and 7
- Covered Arms and GBV
- Building an Evidence Base on GBV
- Mitigating Measures
Summary:
This session will explore the consequences of irresponsible and illicit arms transfers and the motivations behind the ATT. The goal is to understand the history, context and purposes of the ATT.

Guiding Questions:
- What were the motivations behind the ATT’s negotiation?
- What does the ATT seek to achieve?
- How does it seek to achieve this?

Readings:
- 2013 Arms Trade Treaty (entire document)
The Arms Trade Treaty At a Glance

Summary

The Arms Trade Treaty (ATT) establishes common standards for the international trade of conventional weapons and seeks to reduce the illicit arms trade. The treaty aims to reduce human suffering caused by illegal and irresponsible arms transfers, improve regional security and stability, as well as to promote accountability and transparency by state parties concerning transfers of conventional arms. The ATT does not place restrictions on the types or quantities of arms that may be bought, sold, or possessed by states. It also does not impact a state’s domestic gun control laws or other firearm ownership policies.

After nearly two decades of advocacy and diplomacy, a UN conference was convened to negotiate the ATT in July 2012, but fell short of reaching consensus on a final text. Another two week-long conference was convened in March 2013 to complete work on the treaty. However, Iran, North Korea, and Syria blocked consensus on the final treaty text, leading treaty supporters to move it to the UN General Assembly on for approval. On April 2, 2013, the UN General Assembly endorsed the ATT by a vote of 156-3, with 23 abstentions. The treaty opened for signature on June 3, 2013, and entered into force on Dec. 23, 2014.

What the Arms Trade Treaty Does

- The Arms Trade Treaty requires all states-parties to adopt basic regulations and approval processes for the flow of weapons across international borders, establishes common international standards that must be met before arms exports are authorized, and requires annual reporting of imports and exports to a treaty secretariat. In particular, the treaty:
  - requires that states “establish and maintain a national control system, including a national control list” and “designate competent national authorities in order to have an effective and transparent national control system regulating the transfer of conventional arms”;
  - prohibits arms transfer authorizations to states if the transfer would violate “obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes” or under other “relevant international obligations” or if the state “has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes”;
  - requires states to assess the potential that the arms exported would “contribute to or undermine peace and security” or could be used to commit or facilitate serious violations of international humanitarian or human rights law, acts of terrorism, or transnational organized crime; to consider measures to mitigate the risk of these violations; and, if there still remains
an “overriding risk” of “negative consequences,” to “not authorize the export”;

- applies under Article 2(1) to all conventional arms within the seven categories of the UN Register of Conventional Arms (battle tanks, armored combat vehicles, large-caliber artillery systems, combat aircraft, attack helicopters, warships, and missiles and missile launchers) and small arms and light weapons;

- requires that states “establish and maintain a national control system to regulate the export of ammunition/munitions fired, launched or delivered by” the conventional arms listed in Article 2(1) and “parts and components...that provide the capability to assemble” the conventional arms listed in that article;

- requires each state to “take the appropriate measures, pursuant to its national laws, to regulate brokering taking place under its jurisdiction” of conventional arms covered under Article 2(1);

- requires each state to “take measures to prevent...diversion” of conventional arms covered under Article 2(1);

- requires each state to submit annually to the treaty secretariat a report of the preceding year’s “authorized or actual export and imports of conventional arms covered under Article 2(1)” and allows states to exclude “commercially sensitive or national security information”

**Basic Treaty Obligations**

To be in compliance with the ATT, states-parties must:

- establish and maintain an effective national control system for the export, import, transit, and transshipment of and brokering activities related to (all defined as “transfers” in the ATT) the eight categories of conventional arms covered by the ATT, as well as exports of related ammunition and of parts and components that are used for assembling conventional arms covered by the treaty (Articles 3, 4, and 5.2);

- establish and maintain a national control list (Article 5.3) and making it available to other states-parties (Article 5.4);

- designate competent national authorities responsible for maintaining this system (Article 5.5);

- designate at least one national contact point responsible for exchanging information related to the implementation of the ATT (Article 5.6);

- prohibit transfers of conventional arms, ammunition, or parts and components for the eight categories of conventional arms covered by the ATT that would violate obligations under Chapter VII of the UN Charter or international agreements relating to the transfer or illicit trafficking of conventional arms or where there is knowledge that the items will be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, or other war crimes (Article 6);

- review applications for exports of the eight categories of conventional arms covered by the treaty and conducting a national export assessment on the risk that the exported arms could have “negative consequences” for peace, security, and human rights, denying an arms export if the assessment determines that there is an overriding risk that the exported arms will be used to commit or facilitate a serious violation of international humanitarian or human rights law or offenses under international conventions or protocols relating to terrorism or international organized crime and taking into account the risk of the exported arms being used to commit or facilitate serious acts of gender-based violence or violence against women and children (Article 7);
• take measures to regulate conventional arms imports (Article 8);

• when importing conventional arms, provide information to assist the exporting state-party in conducting its national export assessment, including by providing documentation on the end use or end user (Article 8);

• take measures, where necessary and feasible, to regulate the transit and transshipment of conventional arms (Article 9);

• take measures to regulate brokering taking place under its jurisdiction (Article 10);

• take measures, including risk assessments, mitigation measures, cooperation, and information sharing, to prevent the diversion of conventional arms to the illicit market or for unauthorized end use and end users (Article 11);

• maintain national records for each export authorization or delivery of conventional arms for at least 10 years (Article 12);

• provide annual reports to the secretariat on export and import authorizations or deliveries of conventional arms to be distributed to states-parties (Article 13);

• take appropriate measures to enforce national laws and regulations to implement the treaty (Article 14); and

• cooperate with other states-parties in order to implement the ATT effectively (Article 15).

**Timeline of treaty negotiations**

**October 1995:** Dr. Oscar Arias calls upon fellow Noble Laureates to promote an international agreement regulating the trade in conventional arms.

**May 1997:** The Noble Laureate Initiative is officially launched in New York City. The initiative endorses an arms trade Code of Conduct to lay the foundations of a future arms trade treaty.

**October 18, 2006** - UN General Assembly passes Resolution 61/89 with 153 votes. The resolution instructs UN Secretary General to undertake an exploration for a future arms trade treaty. The United States votes against the resolution, the only country to do so.

**September 2007:** The UN Secretary General appoints a group of government experts to examine the “feasibility, scope and draft parameters for a comprehensive, legally binding instrument for the import, export and transfer of conventional arms.”

**December 2008:** The UN General Assembly (Res. 63/240) endorses the report and convened an Open-Ended Working Group to provide a more public forum for further discussion of these and other substantive issues.

**October 14, 2009:** U.S. Secretary of State Hillary Rodham Clinton announces that the United States will support the arms trade treaty negotiation process, and would vote in favor of a General Assembly Resolution creating a treaty conference.

**December 2009:** The UN General Assembly adopts Resolution 64/48, establishing a treaty negotiating conference to be held in 2012 to draft the text of a legally binding arms trade treaty. The resolution also mandates all treaty negotiations will conducted on the basis of consensus.

**July 2-27, 2012:** ATT negotiating conference meets for four consecutive weeks in New York. The conference participants fail to reach consensus on a final treaty text.

**November 2012:** The UN General Assembly overwhelmingly passes a resolution mandating that a second ATT negotiating conference be convened in March 2013.
March 18-28, 2013: The second ATT negotiating conference convenes. A final treaty text is agreed upon. The treaty is blocked from consensus approval by Iran, North Korea, and Syria. A group of 90 countries, including the United States, push the treaty forward to the UN General Assembly for adoption.

April 3, 2013: The UN General Assembly adopts the Arms Trade Treaty by a vote of 153-3, with 22 abstentions.

June 3, 2013: The ATT opens for signature. Sixty-seven countries sign on the treaty’s opening day.

September 23, 2013: The United States becomes the 91st state to sign the ATT.

December 24, 2014: The ATT enters into force, 90 days after the date of the 50th ratification.

August 24-27, 2015: The first Conference of States-Parties for the ATT is held in Cancun, Mexico.

- Updated by Shervin Taheran

Posted: January 19, 2016

Source URL: https://www.armscontrol.org/factsheets/arms_trade_treaty
Preamble

The States Parties to this Treaty,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling Article 26 of the Charter of the United Nations which seeks 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,

Underlining the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized end use and end users, including in the commission of terrorist acts,

Recognizing the legitimate political, security, economic and commercial interests of States in the international trade in conventional arms,

Reaffirming the sovereign right of any State to regulate and control conventional arms exclusively within its territory, pursuant to its own legal or constitutional system,

Acknowledging that peace and security, development and human rights are pillars of the United Nations system and foundations for collective security and recognizing that development, peace and security and human rights are interlinked and mutually reinforcing,

Recalling the United Nations Disarmament Commission Guidelines for international arms transfers in the context of General Assembly resolution 46/36H of 6 December 1991,

Noting the contribution made by the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, as well as the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons,

Recognizing the security, social, economic and humanitarian consequences of the illicit and unregulated trade in conventional arms,

Bearing in mind that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict and armed violence,
Recognizing also the challenges faced by victims of armed conflict and their need for adequate care, rehabilitation and social and economic inclusion,

Emphasizing that nothing in this Treaty prevents States from maintaining and adopting additional effective measures to further the object and purpose of this Treaty,

Mindful of the legitimate trade and lawful ownership, and use of certain conventional arms for recreational, cultural, historical, and sporting activities, where such trade, ownership and use are permitted or protected by law,

Mindful also of the role regional organizations can play in assisting States Parties, upon request, in implementing this Treaty,

Recognizing the voluntary and active role that civil society, including non-governmental organizations, and industry, can play in raising awareness of the object and purpose of this Treaty, and in supporting its implementation,

Acknowledging that regulation of the international trade in conventional arms and preventing their diversion should not hamper international cooperation and legitimate trade in materiel, equipment and technology for peaceful purposes,

Emphasizing the desirability of achieving universal adherence to this Treaty,

Determined to act in accordance with the following principles;

Principles

– The inherent right of all States to individual or collective self-defence as recognized in Article 51 of the Charter of the United Nations;

– The settlement of international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered in accordance with Article 2 (3) of the Charter of the United Nations;

– Refraining in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations in accordance with Article 2 (4) of the Charter of the United Nations;

– Non-intervention in matters which are essentially within the domestic jurisdiction of any State in accordance with Article 2 (7) of the Charter of the United Nations;

– Respecting and ensuring respect for international humanitarian law in accordance with, inter alia, the Geneva Conventions of 1949, and respecting and ensuring respect for human rights in accordance with, inter alia, the Charter of the United Nations and the Universal Declaration of Human Rights;

– The responsibility of all States, in accordance with their respective international obligations, to effectively regulate the international trade in conventional arms, and to prevent their diversion, as well as the primary responsibility of all States in establishing and implementing their respective national control systems;
The respect for the legitimate interests of States to acquire conventional arms to exercise their right to self-defence and for peacekeeping operations; and to produce, export, import and transfer conventional arms;

Implementing this Treaty in a consistent, objective and non-discriminatory manner,

Have agreed as follows:

Article 1
Object and Purpose

The object of this Treaty is to:

– Establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms;

– Prevent and eradicate the illicit trade in conventional arms and prevent their diversion;

for the purpose of:

– Contributing to international and regional peace, security and stability;

– Reducing human suffering;

– Promoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties.

Article 2
Scope

1. This Treaty shall apply to all conventional arms within the following categories:

(a) Battle tanks;

(b) Armoured combat vehicles;

(c) Large-calibre artillery systems;

(d) Combat aircraft;

(e) Attack helicopters;

(f) Warships;

(g) Missiles and missile launchers; and

(h) Small arms and light weapons.

2. For the purposes of this Treaty, the activities of the international trade comprise export, import, transit, trans-shipment and brokering, hereafter referred to as “transfer”.

3. This Treaty shall not apply to the international movement of conventional arms by, or on behalf of, a State Party for its use provided that the conventional arms remain under that State Party’s ownership.
Article 3
Ammunition/Munitions

Each State Party shall establish and maintain a national control system to regulate the export of ammunition/munitions fired, launched or delivered by the conventional arms covered under Article 2 (1), and shall apply the provisions of Article 6 and Article 7 prior to authorizing the export of such ammunition/munitions.

Article 4
Parts and Components

Each State Party shall establish and maintain a national control system to regulate the export of parts and components where the export is in a form that provides the capability to assemble the conventional arms covered under Article 2 (1) and shall apply the provisions of Article 6 and Article 7 prior to authorizing the export of such parts and components.

Article 5
General Implementation

1. Each State Party shall implement this Treaty in a consistent, objective and non-discriminatory manner, bearing in mind the principles referred to in this Treaty.

2. Each State Party shall establish and maintain a national control system, including a national control list, in order to implement the provisions of this Treaty.

3. Each State Party is encouraged to apply the provisions of this Treaty to the broadest range of conventional arms. National definitions of any of the categories covered under Article 2 (1) (a)-(g) shall not cover less than the descriptions used in the United Nations Register of Conventional Arms at the time of entry into force of this Treaty. For the category covered under Article 2 (1) (h), national definitions shall not cover less than the descriptions used in relevant United Nations instruments at the time of entry into force of this Treaty.

4. Each State Party, pursuant to its national laws, shall provide its national control list to the Secretariat, which shall make it available to other States Parties. States Parties are encouraged to make their control lists publicly available.

5. Each State Party shall take measures necessary to implement the provisions of this Treaty and shall designate competent national authorities in order to have an effective and transparent national control system regulating the transfer of conventional arms covered under Article 2 (1) and of items covered under Article 3 and Article 4.

6. Each State Party shall designate one or more national points of contact to exchange information on matters related to the implementation of this Treaty. Each State Party shall notify the Secretariat, established under Article 18, of its national point(s) of contact and keep the information updated.

Article 6
Prohibitions

1. A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if the transfer

2. A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if the transfer would violate its relevant international obligations under international agreements to which it is a Party, in particular those relating to the transfer of, or illicit trafficking in, conventional arms.

3. A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party.

Article 7
Export and Export Assessment

1. If the export is not prohibited under Article 6, each exporting State Party, prior to authorization of the export of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, under its jurisdiction and pursuant to its national control system, shall, in an objective and non-discriminatory manner, taking into account relevant factors, including information provided by the importing State in accordance with Article 8 (1), assess the potential that the conventional arms or items:
   
   (a) would contribute to or undermine peace and security;
   
   (b) could be used to:
   
   (i) commit or facilitate a serious violation of international humanitarian law;
   
   (ii) commit or facilitate a serious violation of international human rights law;
   
   (iii) commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party; or
   
   (iv) commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.

2. The exporting State Party shall also consider whether there are measures that could be undertaken to mitigate risks identified in (a) or (b) in paragraph 1, such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States.

3. If, after conducting this assessment and considering available mitigating measures, the exporting State Party determines that there is an overriding risk of any of the negative consequences in paragraph 1, the exporting State Party shall not authorize the export.
4. The exporting State Party, in making this assessment, shall take into account the risk of the conventional arms covered under Article 2 (1) or of the items covered under Article 3 or Article 4 being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children.

5. Each exporting State Party shall take measures to ensure that all authorizations for the export of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4 are detailed and issued prior to the export.

6. Each exporting State Party shall make available appropriate information about the authorization in question, upon request, to the importing State Party and to the transit or trans-shipment States Parties, subject to its national laws, practices or policies.

7. If, after an authorization has been granted, an exporting State Party becomes aware of new relevant information, it is encouraged to reassess the authorization after consultations, if appropriate, with the importing State.

Article 8
Import

1. Each importing State Party shall take measures to ensure that appropriate and relevant information is provided, upon request, pursuant to its national laws, to the exporting State Party, to assist the exporting State Party in conducting its national export assessment under Article 7. Such measures may include end use or end user documentation.

2. Each importing State Party shall take measures that will allow it to regulate, where necessary, imports under its jurisdiction of conventional arms covered under Article 2 (1). Such measures may include import systems.

3. Each importing State Party may request information from the exporting State Party concerning any pending or actual export authorizations where the importing State Party is the country of final destination.

Article 9
Transit or trans-shipment

Each State Party shall take appropriate measures to regulate, where necessary and feasible, the transit or trans-shipment under its jurisdiction of conventional arms covered under Article 2 (1) through its territory in accordance with relevant international law.

Article 10
Brokering

Each State Party shall take measures, pursuant to its national laws, to regulate brokering taking place under its jurisdiction for conventional arms covered under Article 2 (1). Such measures may include requiring brokers to register or obtain written authorization before engaging in brokering.

Article 11
Diversion
1. Each State Party involved in the transfer of conventional arms covered under Article 2 (1) shall take measures to prevent their diversion.

2. The exporting State Party shall seek to prevent the diversion of the transfer of conventional arms covered under Article 2 (1) through its national control system, established in accordance with Article 5 (2), by assessing the risk of diversion of the export and considering the establishment of mitigation measures such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States. Other prevention measures may include, where appropriate: examining parties involved in the export, requiring additional documentation, certificates, assurances, not authorizing the export or other appropriate measures.

3. Importing, transit, trans-shipment and exporting States Parties shall cooperate and exchange information, pursuant to their national laws, where appropriate and feasible, in order to mitigate the risk of diversion of the transfer of conventional arms covered under Article 2 (1).

4. If a State Party detects a diversion of transferred conventional arms covered under Article 2 (1), the State Party shall take appropriate measures, pursuant to its national laws and in accordance with international law, to address such diversion. Such measures may include alerting potentially affected States Parties, examining diverted shipments of such conventional arms covered under Article 2 (1), and taking follow-up measures through investigation and law enforcement.

5. In order to better comprehend and prevent the diversion of transferred conventional arms covered under Article 2 (1), States Parties are encouraged to share relevant information with one another on effective measures to address diversion. Such information may include information on illicit activities including corruption, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organized groups engaged in diversion.

6. States Parties are encouraged to report to other States Parties, through the Secretariat, on measures taken in addressing the diversion of transferred conventional arms covered under Article 2 (1).

**Article 12**

**Record keeping**

1. Each State Party shall maintain national records, pursuant to its national laws and regulations, of its issuance of export authorizations or its actual exports of the conventional arms covered under Article 2 (1).

2. Each State Party is encouraged to maintain records of conventional arms covered under Article 2 (1) that are transferred to its territory as the final destination or that are authorized to transit or trans-ship territory under its jurisdiction.

3. Each State Party is encouraged to include in those records: the quantity, value, model/type, authorized international transfers of conventional arms covered under Article 2 (1), conventional arms actually transferred, details of exporting State(s), importing State(s), transit and trans-shipment State(s), and end users, as appropriate.

4. Records shall be kept for a minimum of ten years.
Article 13
Reporting

1. Each State Party shall, within the first year after entry into force of this Treaty for that State Party, in accordance with Article 22, provide an initial report to the Secretariat of measures undertaken in order to implement this Treaty, including national laws, national control lists and other regulations and administrative measures. Each State Party shall report to the Secretariat on any new measures undertaken in order to implement this Treaty, when appropriate. Reports shall be made available, and distributed to States Parties by the Secretariat.

2. States Parties are encouraged to report to other States Parties, through the Secretariat, information on measures taken that have been proven effective in addressing the diversion of transferred conventional arms covered under Article 2(1).

3. Each State Party shall submit annually to the Secretariat by 31 May a report for the preceding calendar year concerning authorized or actual exports and imports of conventional arms covered under Article 2(1). Reports shall be made available, and distributed to States Parties by the Secretariat. The report submitted to the Secretariat may contain the same information submitted by the State Party to relevant United Nations frameworks, including the United Nations Register of Conventional Arms. Reports may exclude commercially sensitive or national security information.

Article 14
Enforcement

Each State Party shall take appropriate measures to enforce national laws and regulations that implement the provisions of this Treaty.

Article 15
International Cooperation

1. States Parties shall cooperate with each other, consistent with their respective security interests and national laws, to effectively implement this Treaty.

2. States Parties are encouraged to facilitate international cooperation, including exchanging information on matters of mutual interest regarding the implementation and application of this Treaty pursuant to their respective security interests and national laws.

3. States Parties are encouraged to consult on matters of mutual interest and to share information, as appropriate, to support the implementation of this Treaty.

4. States Parties are encouraged to cooperate, pursuant to their national laws, in order to assist national implementation of the provisions of this Treaty, including through sharing information regarding illicit activities and actors and in order to prevent and eradicate diversion of conventional arms covered under Article 2(1).

5. States Parties shall, where jointly agreed and consistent with their national laws, afford one another the widest measure of assistance in investigations, prosecutions and judicial proceedings in relation to violations of national measures established pursuant to this Treaty.
6. States Parties are encouraged to take national measures and to cooperate with each other to prevent the transfer of conventional arms covered under Article 2 (1) becoming subject to corrupt practices.

7. States Parties are encouraged to exchange experience and information on lessons learned in relation to any aspect of this Treaty.

**Article 16**

**International Assistance**

1. In implementing this Treaty, each State Party may seek assistance including legal or legislative assistance, institutional capacity-building, and technical, material or financial assistance. Such assistance may include stockpile management, disarmament, demobilization and reintegration programmes, model legislation, and effective practices for implementation. Each State Party in a position to do so shall provide such assistance, upon request.

2. Each State Party may request, offer or receive assistance through, inter alia, the United Nations, international, regional, subregional or national organizations, non-governmental organizations, or on a bilateral basis.

3. A voluntary trust fund shall be established by States Parties to assist requesting States Parties requiring international assistance to implement this Treaty. Each State Party is encouraged to contribute resources to the fund.

**Article 17**

**Conference of States Parties**

1. A Conference of States Parties shall be convened by the provisional Secretariat, established under Article 18, no later than one year following the entry into force of this Treaty and thereafter at such other times as may be decided by the Conference of States Parties.

2. The Conference of States Parties shall adopt by consensus its rules of procedure at its first session.

3. The Conference of States Parties shall adopt financial rules for itself as well as governing the funding of any subsidiary bodies it may establish as well as financial provisions governing the functioning of the Secretariat. At each ordinary session, it shall adopt a budget for the financial period until the next ordinary session.

4. The Conference of States Parties shall:
   
   (a) Review the implementation of this Treaty, including developments in the field of conventional arms;
   
   (b) Consider and adopt recommendations regarding the implementation and operation of this Treaty, in particular the promotion of its universality;
   
   (c) Consider amendments to this Treaty in accordance with Article 20;
   
   (d) Consider issues arising from the interpretation of this Treaty;
   
   (e) Consider and decide the tasks and budget of the Secretariat;
   
   (f) Consider the establishment of any subsidiary bodies as may be necessary to improve the functioning of this Treaty; and
(g) Perform any other function consistent with this Treaty.

5. Extraordinary meetings of the Conference of States Parties shall be held at such other times as may be deemed necessary by the Conference of States Parties, or at the written request of any State Party provided that this request is supported by at least two-thirds of the States Parties.

Article 18

Secretariat

1. This Treaty hereby establishes a Secretariat to assist States Parties in the effective implementation of this Treaty. Pending the first meeting of the Conference of States Parties, a provisional Secretariat will be responsible for the administrative functions covered under this Treaty.

2. The Secretariat shall be adequately staffed. Staff shall have the necessary expertise to ensure that the Secretariat can effectively undertake the responsibilities described in paragraph 3.

3. The Secretariat shall be responsible to States Parties. Within a minimized structure, the Secretariat shall undertake the following responsibilities:

   (a) Receive, make available and distribute the reports as mandated by this Treaty;

   (b) Maintain and make available to States Parties the list of national points of contact;

   (c) Facilitate the matching of offers of and requests for assistance for Treaty implementation and promote international cooperation as requested;

   (d) Facilitate the work of the Conference of States Parties, including making arrangements and providing the necessary services for meetings under this Treaty; and

   (e) Perform other duties as decided by the Conferences of States Parties.

Article 19

Dispute Settlement

1. States Parties shall consult and, by mutual consent, cooperate to pursue settlement of any dispute that may arise between them with regard to the interpretation or application of this Treaty including through negotiations, mediation, conciliation, judicial settlement or other peaceful means.

2. States Parties may pursue, by mutual consent, arbitration to settle any dispute between them, regarding issues concerning the interpretation or application of this Treaty.

Article 20

Amendments

1. Six years after the entry into force of this Treaty, any State Party may propose an amendment to this Treaty. Thereafter, proposed amendments may only be considered by the Conference of States Parties every three years.
2. Any proposal to amend this Treaty shall be submitted in writing to the Secretariat, which shall circulate the proposal to all States Parties, not less than 180 days before the next meeting of the Conference of States Parties at which amendments may be considered pursuant to paragraph 1. The amendment shall be considered at the next Conference of States Parties at which amendments may be considered pursuant to paragraph 1 if, no later than 120 days after its circulation by the Secretariat, a majority of States Parties notify the Secretariat that they support consideration of the proposal.

3. The States Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall, as a last resort, be adopted by a three-quarters majority vote of the States Parties present and voting at the meeting of the Conference of States Parties. For the purposes of this Article, States Parties present and voting means States Parties present and casting an affirmative or negative vote. The Depositary shall communicate any adopted amendment to all States Parties.

4. An amendment adopted in accordance with paragraph 3 shall enter into force for each State Party that has deposited its instrument of acceptance for that amendment, ninety days following the date of deposit with the Depositary of the instruments of acceptance by a majority of the number of States Parties at the time of the adoption of the amendment. Thereafter, it shall enter into force for any remaining State Party ninety days following the date of deposit of its instrument of acceptance for that amendment.

**Article 21**

**Signature, Ratification, Acceptance, Approval or Accession**

1. This Treaty shall be open for signature at the United Nations Headquarters in New York by all States from 3 June 2013 until its entry into force.

2. This Treaty is subject to ratification, acceptance or approval by each signatory State.

3. Following its entry into force, this Treaty shall be open for accession by any State that has not signed the Treaty.

4. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

**Article 22**

**Entry into Force**

1. This Treaty shall enter into force ninety days following the date of the deposit of the fiftieth instrument of ratification, acceptance or approval with the Depositary.

2. For any State that deposits its instrument of ratification, acceptance, approval or accession subsequent to the entry into force of this Treaty, this Treaty shall enter into force for that State ninety days following the date of deposit of its instrument of ratification, acceptance, approval or accession.

**Article 23**

**Provisional Application**
Any State may at the time of signature or the deposit of instrument of its of ratification, acceptance, approval or accession, declare that it will apply provisionally Article 6 and Article 7 pending the entry into force of this Treaty for that State.

Article 24
Duration and Withdrawal

1. This Treaty shall be of unlimited duration.

2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty. It shall give notification of such withdrawal to the Depositary, which shall notify all other States Parties. The notification of withdrawal may include an explanation of the reasons for its withdrawal. The notice of withdrawal shall take effect ninety days after the receipt of the notification of withdrawal by the Depositary, unless the notification of withdrawal specifies a later date.

3. A State shall not be discharged, by reason of its withdrawal, from the obligations arising from this Treaty while it was a Party to this Treaty, including any financial obligations that it may have accrued.

Article 25
Reservations

1. At the time of signature, ratification, acceptance, approval or accession, each State may formulate reservations, unless the reservations are incompatible with the object and purpose of this Treaty.

2. A State Party may withdraw its reservation at any time by notification to this effect addressed to the Depositary.

Article 26
Relationship with other international agreements

1. The implementation of this Treaty shall not prejudice obligations undertaken by States Parties with regard to existing or future international agreements, to which they are parties, where those obligations are consistent with this Treaty.

2. This Treaty shall not be cited as grounds for voiding defence cooperation agreements concluded between States Parties to this Treaty.

Article 27
Depositary

The Secretary-General of the United Nations shall be the Depositary of this Treaty.

Article 28
Authentic Texts

The original text of this Treaty, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
UNITED NATIONS — The United Nations General Assembly voted overwhelmingly on Tuesday to approve a pioneering treaty aimed at regulating the enormous global trade in conventional weapons, for the first time linking sales to the human rights records of the buyers.

Although implementation is years away and there is no specific enforcement mechanism, proponents say the treaty would for the first time force sellers to consider how their customers will use the weapons and to make that information public. The goal is to curb the sale of weapons that kill tens of thousands of people every year — by, for example, making it harder for Russia to argue that its arms deals with Syria are legal under international law.

The treaty, which took seven years to negotiate, reflects growing international sentiment that the multibillion-dollar weapons trade needs to be held to a moral standard. The hope is that even nations reluctant to ratify the treaty will feel public pressure to abide by its provisions. The treaty calls for sales to be evaluated on whether the weapons will be used to break humanitarian law, foment genocide or war crimes, abet terrorism or organized crime or slaughter women and children.

“Finally we have seen the governments of the world come together and say ‘Enough!’ ” said Anna MacDonald, the head of arms control for Oxfam International, one of the many rights groups that pushed for the treaty. “It is time to stop the poorly regulated arms trade. It is time to bring the arms trade under control.”

She pointed to the Syrian civil war, where 70,000 people have been killed, as a hypothetical example, noting that Russia argues that sales are permitted because there is no arms embargo.

“This treaty won’t solve the problems of Syria overnight, no treaty could do that, but it will help to prevent future Syrias,” Ms. MacDonald said. “It will help to reduce armed violence. It will help to reduce conflict.”

Members of the General Assembly voted 154 to 3 to approve the Arms Trade Treaty, with 23 abstentions — many from nations with dubious recent human rights records like Bahrain, Myanmar and Sri Lanka.
The vote came after more than two decades of organizing. Humanitarian groups started lobbying after the 1991 Persian Gulf war to curb the trade in conventional weapons, having realized that Iraq had more weapons than France, diplomats said.

The treaty establishes an international forum of states that will review published reports of arms sales and publicly name violators. Even if the treaty will take time to become international law, its standards will be used immediately as political and moral guidelines, proponents said.

“It will help reduce the risk that international transfers of conventional arms will be used to carry out the world’s worst crimes, including terrorism, genocide, crimes against humanity and war crimes,” Secretary of State John Kerry said in a statement after the United States, the biggest arms exporter, voted with the majority for approval.

But the abstaining countries included China and Russia, which also are leading sellers, raising concerns about how many countries will ultimately ratify the treaty. It is scheduled to go into effect after 50 nations have ratified it. Given the overwhelming vote, diplomats anticipated that it could go into effect in two to three years, relative quickly for an international treaty.

Proponents said that if enough countries ratify the treaty, it will effectively become the international norm. If major sellers like the United States and Russia choose to sit on the sidelines while the rest of the world negotiates what weapons can be traded globally, they will still be affected by the outcome, activists said.

The treaty’s ratification prospects in the Senate appear bleak, at least in the short term, in part because of opposition by the gun lobby. More than 50 senators signaled months ago that they would oppose the treaty — more than enough to defeat it, since 67 senators must ratify it.

Among the opponents is Senator John Cornyn of Texas, the second-ranking Republican. In a statement last month, he said that the treaty contained “unnecessarily harsh treatment of civilian-owned small arms” and violated the right to self-defense and United States sovereignty.

In a bow to American concerns, the preamble states that it is focused on international sales, not traditional domestic use, but the National Rifle Association has vowed to fight ratification anyway. The General Assembly vote came after efforts to achieve a consensus on the treaty among all 193 member states of the United Nations failed last week, with Iran, North Korea and Syria blocking it. The three, often ostracized, voted against the treaty again on Tuesday.

Vitaly I. Churkin, the Russian envoy to the United Nations, said Russian misgivings about what he called ambiguities in the treaty, including how terms like genocide would be defined, had pushed his government to abstain. But neither Russia nor China rejected it outright.

“Having the abstentions from two major arms exporters lessens the moral weight of the treaty,” said Nic Marsh, a proponent with the Peace Research Institute in Oslo. “By abstaining they have left their options open.”
Numerous states, including Bolivia, Cuba and Nicaragua, said they had abstained because the human rights criteria were ill defined and could be abused to create political pressure. Many who abstained said the treaty should have banned sales to all armed groups, but supporters said the guidelines did that effectively while leaving open sales to liberation movements facing abusive governments.

Supporters also said that over the long run the guidelines should work to make the criteria more standardized, rather than arbitrary, as countries agree on norms of sale in a trade estimated at $70 billion annually.

The treaty covers tanks, armored combat vehicles, large-caliber weapons, combat aircraft, attack helicopters, warships, missiles and launchers, small arms and light weapons. Ammunition exports are subject to the same criteria as the other war matériel. Imports are not covered.

India, a major importer, abstained because of its concerns that its existing contracts might be blocked, despite compromise language to address that.

Support was particularly strong among African countries — even if the compromise text was weaker than some had anticipated — with most governments asserting that in the long run, the treaty would curb the arms sales that have fueled many conflicts.

Even some supporters conceded that the highly complicated negotiations forced compromises that left significant loopholes. The treaty focuses on sales, for example, and not on all the ways in which conventional arms are transferred, including as gifts, loans, leases and aid.

“This is a very good framework to build on,” said Peter Woolcott, the Australian diplomat who presided over the negotiations. “But it is only a framework."

**Correction: April 4, 2013**

An article on Wednesday about the United Nations General Assembly’s overwhelming approval of an arms control treaty misspelled, in some copies, the surname of the head of arms control for Oxfam International, one of many rights groups that pushed for the treaty. She is Anna MacDonald, not McDonald.

Rick Gladstone contributed reporting from New York, and Jonathan Weisman from Washington.

A version of this article appears in print on April 3, 2013, on Page A12 of the New York edition with the headline: U.N. Approves First Weapons Treaty Aimed at Regulating Global Sales
The ATT in International Law

Summary:

This session will situate the ATT in the humanitarian disarmament, with a focus on international human rights law, international humanitarian law, counter-terrorism and transnational organized crime obligations. It will also address other frameworks, including the European Union Common Position on Arms Export Controls and Programme of Action on Small Arms and Light Weapons.

Guiding Questions:

- What is “humanitarian disarmament”?
- How does humanitarian disarmament relate to international humanitarian law (IHL) and international human rights law (IHRL)?
- What provisions of the ATT are especially relevant to IHL, IHRL, counter-terrorism, and transnational organized crime? What do those fields of law require?
- What is the relationship between the ATT and other instruments, such as the

Readings:

- International Committee of the Red Cross, *Understanding the Arms Trade Treaty from a Humanitarian Perspective*, 2017 (extracts)

- International Committee of the Red Cross, “What is International Humanitarian Law?” 2004 (extracts)


UNDERSTANDING THE ARMS TRADE TREATY
FROM A HUMANITARIAN PERSPECTIVE
INTRODUCTION

The Arms Trade Treaty (ATT), which entered into force in December 2014, is part of the international response to the tremendous human suffering caused by the widespread and poorly regulated availability of conventional weapons. In establishing for the first time a global norm for responsible arms transfers, the ATT represents a historic achievement.

In its work to protect and assist victims of armed conflict and other situations of violence, the International Committee of the Red Cross (ICRC) has borne witness to the high human and social costs of the widespread availability and misuse of conventional arms. Weak controls on international arms transfers have facilitated violations of international humanitarian law (IHL) and human rights law. They have endangered vital medical and humanitarian assistance. They have prolonged armed conflicts, with tragic consequences for civilians and their communities. And they have contributed to persistently high levels of armed violence and insecurity even after armed conflicts have ended, hindering post-conflict reconciliation and reconstruction.

Today, as weapons continue to flow to some of the most brutal armed conflicts, responsible arms transfers are a humanitarian imperative, and restraints on such transfers an essential element of any humanitarian response. Under the four Geneva Conventions of 1949, all States have an obligation to respect and ensure respect for IHL. They must therefore ensure that the arms and ammunition they transfer do not end up in the hands of those who may be expected to use them to commit war crimes. The ATT acknowledges this responsibility of States by prohibiting

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1 International humanitarian law (IHL) – also known as the law of war or the law of armed conflict – is made up of rules that aim to limit the effects of armed conflict for humanitarian reasons. It protects persons who are not or are no longer participating in hostilities, and imposes limits on the choice of means and methods of warfare.

arms transfers where there are risks of this happening. The Treaty similarly prohibits arms transfers if the arms could be used to commit serious violations of international human rights law.

By establishing common international standards for regulating the international trade in conventional arms, the ATT holds out the promise of saved lives, unhindered delivery of medical and humanitarian assistance, and strengthened compliance with IHL and human rights. But fulfilling this promise will require the concerted efforts of all stakeholders – including States, the International Red Cross and Red Crescent Movement and civil society – to promote universal adherence to the Treaty and its faithful implementation.

This publication provides an overview of the background of the ATT, its object and purpose and its main requirements. It is not intended to be a record of the treaty’s negotiating history or a comprehensive commentary on the treaty. Rather, it presents and explains the ATT’s major elements, and offers the ICRC’s recommendations regarding the implementation of those provisions of the Treaty that are most relevant to achieving its humanitarian purpose.

The ICRC’s views on certain provisions of the ATT are presented in the text boxes.

The annexes contain the text of the ATT and a list of additional resources on the ATT.
REDUCING HUMAN SUFFERING THROUGH RESPONSIBLE ARMS TRANSFERS
THE ROAD TO THE ARMS TRADE TREATY
2.1 Responsible arms transfers as a humanitarian imperative

States party to the Geneva Conventions first expressed alarm at the uncontrolled proliferation of weapons in 1995, during the 26th International Conference of the Red Cross and Red Crescent.\(^3\) The Conference mandated the ICRC “to examine, on the basis of first-hand information available to it, the extent to which the availability of weapons is contributing to the proliferation and aggravation of violations of IHL in armed conflicts and the deterioration of the situation of civilians.”\(^4\) The ICRC published the results of its study four years later, finding that the widespread and uncontrolled availability of arms and ammunition facilitates IHL violations, hampers the delivery of humanitarian assistance, and contributes to prolonging the duration of armed conflicts and to maintaining high levels of insecurity and violence even after armed conflicts have ended.\(^5\)

Based on the ICRC’s recommendations, the 27th International Conference in 1999 called on States to enhance the protection of civilians in armed conflict and post-conflict situations by strengthening controls on the availability of arms and ammunition at national, regional and international levels. Crucially, the Conference called on States “to integrate consideration of respect for international humanitarian law into national decision-making on transfers of arms and ammunition”.\(^6\) This appeal was echoed by the three subsequent International Conferences in 2003, 2007 and 2011 respectively, which committed States to strengthen controls on the transfer of weapons, including at the global

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\(^3\) The International Conference of the Red Cross and Red Crescent brings together every four years the States party to the Geneva Conventions and the components of the International Red Cross and Red Crescent Movement, i.e. the ICRC, the International Federation of Red Cross and Red Crescent Societies, and the 190 national Red Cross and Red Crescent Societies.


\(^5\) ICRC, \textit{op. cit.}

level, so that weapons do not end up in the hands of those who may be expected to use them in violation of IHL.\footnote{Resolution 1 of the 28th International Conference of the Red Cross and Red Crescent, “Adoption of the Declaration and Agenda for Humanitarian Action”, Geneva, 2–6 December 2003, Final Goal 2.3; Resolution 3 of the 30th International Conference of the Red Cross and Red Crescent, “Reaffirmation and Implementation of International Humanitarian Law: Preserving Human Life and Dignity in Armed Conflict”, Geneva, 26–30 November 2007, para. 20; and Resolution 2 of the 31st International Conference of the Red Cross and Red Crescent, “4-Year Action Plan for the Implementation of International Humanitarian Law”, Geneva, 28 November–1 December 2011, Annex 1, Objective 5.}

The efforts of the ICRC and the broader International Red Cross and Red Crescent Movement to promote responsible arms transfers proceeded in parallel to those of a group of Nobel Peace Prize laureates and civil society organizations. In the 1990s, the group had voiced concerns about the unregulated global arms trade and its impact on human security. In 2001, the group called for a universal, legally binding agreement governing arms transfers on the basis of States’ commitments under IHL and international human rights law. In pursuit of this goal, an international coalition of non-governmental organizations (NGOs) in 2003 launched the Control Arms campaign, advocating the adoption of an “arms trade treaty” with the strongest possible common international standards for conventional arms transfers based on human rights, development and IHL concerns.\footnote{Control Arms, Making it Happen: The Role of Civil Society in Supporting and Promoting ATT Implementation and Universalization, 17 February 2015, http://controlarms.org/en/wp-content/uploads/sites/2/2015/05/Civil-Society-Role-CSP.pdf.}

Soon after, the ICRC began expressing its support for the goal of an arms trade treaty as an important means to reduce human suffering. Many National Red Cross and Red Crescent Societies, which had also been active in raising their governments’ and public awareness of the severe human cost of the widespread availability of arms and ammunition, joined this call.
2.2 The Arms Trade Treaty process

In 2006, the UN General Assembly recognized that the absence of common international standards for the transfer of conventional arms contributes to armed conflict, the displacement of people, crime and terrorism, and that these in turn undermine peace, reconciliation, safety, security, stability and sustainable social and economic development. Based on this finding, the General Assembly launched a process to examine the feasibility of a treaty establishing common international standards for the transfer of conventional arms. 9

The process culminated in two diplomatic conferences, held in July 2012 and March 2013, to negotiate a legally binding treaty on “the highest possible common international standards for the … transfer of conventional arms”. 10 Although the Final United Nations Conference on the Arms Trade Treaty ended without reaching consensus on the draft text of the treaty, the UN General Assembly adopted it by a vote a few days later, on 2 April 2013. 11 The ATT was opened for signature on 3 June of that year, and entered into force just 18 months later, on 24 December 2014.

The ICRC actively participated in the discussions and negotiations that led to the adoption of the ATT, with the aims of ensuring that:

- the Treaty’s text would clearly reflect its humanitarian purpose;
- the scope of the Treaty would include all forms of conventional weapons, as well as their ammunition, and all forms of arms transfers; and
- in light of States’ existing obligation to ensure respect for IHL, the treaty’s criteria for the transfer of arms and ammunition would require that States (a) assess the likelihood that serious violations of IHL would be committed with the weapons being transferred, and (b) not authorize transfers if there was a clear risk that the

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9 UN Doc. A/RES/61/89, 6 December 2006.
arms and ammunition would be used to commit serious violations of IHL.

The final text of the ATT largely reflected these aims.¹²

2.3 Responsible arms transfers outside of the ATT

Before the adoption of the ATT, arms transfers were regulated by a patchwork of regional instruments. These include legally binding instruments, such as the 2008 European Union (EU) Council Common Position on arms export controls,¹³ and the 2006 Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials.¹⁴ Other regional instruments provide States with non-binding guidelines for controlling their arms transfers. Among these are the 2005 Central American Integration System (SICA) Code of Conduct of Central American States on the Transfer of Arms, Ammunition, Explosives and Other Related Materiel, the 2005 Best Practice Guidelines for the implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons, and the 2000 Organization for Security and Co-operation in Europe (OSCE) Document on Small Arms and Light Weapons.¹⁵

Like the ATT, these instruments subject arms transfers to considerations of respect for IHL and/or human rights by the

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¹⁴ A third regional treaty regulating arms transfers, the 2010 Central African Convention for the Control of Small Arms and Light Weapons, their Ammunition, Parts and Components that can be used for their Manufacture, Repair and Assembly (Kinshasa Convention), has not yet entered into force (http://disarmament.un.org/treaties/t/kinshasa/text).
¹⁵ Code of Conduct of Central American States on the Transfer of Arms, Ammunition, Explosives and Other Related Materiel, UN Doc. A/CONF.192/2006/RC/WP.6; Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA), Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons, 2005; OSCE Document on Small Arms and Light Weapons, 24 November 2000. See also Wassenaar Arrangement, Best Practice Guidelines for Exports of Small Arms and Light Weapons (SALW), amended in 2007; and Organization of American States (OAS), Amendments to the Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition – Broker Regulations, 13 November 2003, and Model Regulations for the Control of Brokers of Firearms, their Parts and Components and Ammunition, 17 November 2003.
recipient, among other criteria. However, each applies only to limited numbers of States, and they differ in the scope of the weapons they cover and the level of risk that would prevent arms transfers. In contrast, the ATT has established for the first time a global standard to regulate the transfer of a broad range of conventional arms and ammunition.

It is important to note that, even if a State is party neither to the ATT nor to a regional arms transfer instrument, its arms transfers do not occur in a legal vacuum. At a minimum, they are framed by the State’s obligation to respect and ensure respect for IHL “in all circumstances.”\(^\text{16}\) This obligation is interpreted as conferring on States not involved in an armed conflict a duty to ensure respect for IHL by the parties to a conflict, consisting of a negative obligation to refrain from any act that would encourage, aid or assist in the commission of an IHL violation, and of a positive obligation to use one’s practical means to influence the behaviour of a party to an armed conflict in order to prevent IHL violations from being committed.

In the view of the ICRC, applying the obligation to ensure respect for IHL to arms transfers would entail the following requirements:

\(\Rightarrow\) In order to prevent the possibility that arms transfers might amount to encouraging, aiding or assisting a party to an armed conflict in the commission of IHL violations, a State would have to assess whether the recipient is likely to use the weapons to commit IHL violations. If there is a substantial or clear risk of this happening, the State must refrain from transferring the weapons.

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\(^{16}\) This obligation is found in Article 1 common to the Geneva Conventions of 1949 and in Article 1 (1) of their Additional Protocol I of 1977, and is a rule of customary international law applying in both international and non-international armed conflicts. See J.M. Henckaerts and L. Doswald-Beck, *Customary International Humanitarian Law*, ICRC and Cambridge University Press, 2005, Rule 144. For a discussion of the application of this obligation to arms transfers specifically, see “International humanitarian law and the challenges of contemporary armed conflicts”, Report to the 32nd International Conference of the Red Cross and Red Crescent, Geneva, held on 8–10 December 2015, October 2015. For a more in-depth explanation of the obligation to ensure respect for IHL by others that are party to an armed conflict, see the Commentary on the First Geneva Convention, 2nd edition, ICRC and Cambridge University Press, 2016, Art. 1, MN 153–191, https://ihl-databases.icrc.org/ihl/full/GCI-commentary.
In addition, a State is required to take positive steps to ensure respect for IHL by parties to an armed conflict. Here, a State’s obligation is one of due diligence. It must use its leverage, based on the means at its disposal, to induce respect for IHL, in particular where there is a foreseeable risk that IHL violations may be committed. Indeed, when a State supplies weapons to a party to an armed conflict, it can be considered particularly influential in ensuring respect for IHL, owing to its ability to provide or withhold the means by which violations may be committed. Its practical ability to influence the recipient may be exercised through a range of means, including mitigation measures, or by deciding not to transfer the weapons.

The ATT makes explicit reference to the obligation to ensure respect for IHL in its principles, which States Parties are required to take into account in implementing the Treaty.

2.4 Faithfully implementing the ATT
The faithful interpretation and implementation of the ATT requires an understanding of the Treaty’s underlying aims and objectives. These are set out in the ATT’s preamble, principles, and object and purpose. Taken together, they form the basis on which to interpret the Treaty’s requirements.

Understanding the aims and objectives of the ATT is also important for States that have signed but not yet ratified the Treaty. Although they are not legally bound to implement the ATT until they have ratified it, signatory States are

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18 Under Article 31 of the Vienna Convention on the Law of Treaties, which reflects a rule of customary international law, the terms of a treaty must be interpreted in good faith, in accordance with their ordinary meaning and in their context, and in light of the treaty’s object and purpose. The “context” of a treaty includes its preamble.
required to refrain from acts that would defeat the Treaty’s “object and purpose”.19

Article 1 of the ATT sets out its object and purpose. Its object is to “establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms” and to “prevent and eradicate the illicit trade in conventional arms and prevent their diversion”.

“Reducing human suffering” is one of the ATT’s fundamental purposes. The others are to contribute to international and regional peace, security and stability, and to promote “cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties”. The purposes of the ATT are interlinked and mutually reinforcing: by reducing human suffering, the ATT will contribute to peace, stability and security, aims that will require cooperation, transparency and responsible action by all States Parties.20

The ATT’s preamble commits States Parties to “act in accordance with” a list of principles, which express pre-existing obligations and rights of States under international law, including States’ duties under the UN Charter, such as the settlement of disputes by peaceful means and the obligation to refrain from the threat or use of force against any State.

Importantly, the principles also reaffirm States’ obligation to respect and ensure respect for IHL, discussed above, “in accordance with, inter alia, the Geneva Conventions of 1949”21 and also refer to “respecting and ensuring respect

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19 This is also the case for a State that is awaiting the Treaty’s entry into force for it, during the 90-day period following the deposit of its instrument of ratification or accession. In addition, States are prohibited from formulating reservations that are incompatible with the Treaty’s object and purpose. See Articles 18 and 25 of the ATT and Article 19 of the Vienna Convention on the Law of Treaties.

20 See also the Treaty’s sixth preambular paragraph, which recognizes that “peace and security, development and human rights are interlinked and mutually reinforcing”.

21 The scope of this obligation is discussed in Section 2.3 above.
for human rights in accordance with, inter alia, the Charter of the United Nations and the Universal Declaration of Human Rights”.22

The importance of the principles is underscored by Article 5 (1) of the Treaty, which requires States Parties to implement the ATT “in a consistent, objective and non-discriminatory manner, bearing in mind the principles” referred to in the Treaty, including the responsibilities of all States to prevent and put an end to violations of IHL and human rights. These are especially relevant to the implementation of the Treaty’s arms transfer criteria, set out in Articles 6 and 7.23

To ensure that the ATT effectively reduces the human suffering caused by the widespread and poorly regulated availability of weapons and their misuse:

- States Parties must interpret and implement the ATT in good faith, in accordance with its humanitarian purpose, and in a consistent, objective and non-discriminatory manner, bearing in mind their responsibilities to respect and ensure respect for IHL and for international human rights law.
- States that have signed the ATT must immediately review their arms transfer policies so as to avoid any transfers that would undermine the Treaty’s object and purpose.
- States that have ratified the ATT must do the same pending its entry into force for them.
- Upon ratifying or acceding to the ATT, States must not make any reservations that would contradict or undermine the Treaty’s object and purpose.

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22 The obligations to respect human rights are formulated variously in the relevant treaties. Human rights obligations apply not only domestically (within national territory), but also, in certain circumstances, extraterritorially. See, for instance, under Art. 2 (1) of the 1966 International Covenant on Civil and Political Rights, one of the most widely ratified universal human rights treaties, “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

23 See Section 3.2 below.
What is International Humanitarian Law?

What is international humanitarian law?

International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict.

International humanitarian law is part of international law, which is the body of rules governing relations between States. International law is contained in agreements between States – treaties or conventions –, in customary rules, which consist of State practise considered by them as legally binding, and in general principles.

International humanitarian law applies to armed conflicts. It does not regulate whether a State may actually use force; this is governed by an important, but distinct, part of international law set out in the United Nations Charter.

Where did international humanitarian law originate?

International humanitarian law is rooted in the rules of ancient civilizations and religions – warfare has always been subject to certain principles and customs.

Universal codification of international humanitarian law began in the nineteenth century. Since then, States have agreed to a series of practical rules, based on the bitter experience of modern warfare. These rules strike a careful balance between humanitarian concerns and the military requirements of States.

As the international community has grown, an increasing number of States have contributed to the development of those rules. International humanitarian law forms today a universal body of law.

Where is international humanitarian law to be found?

A major part of international humanitarian law is contained in the four Geneva Conventions of 1949. Nearly every State in the world has agreed to be bound by them. The Conventions have been developed and supplemented by two further agreements: the Additional Protocols of 1977 relating to the protection of victims of armed conflicts.

Other agreements prohibit the use of certain weapons and military tactics and protect certain categories of people and goods. These agreements include:

- the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, plus its two protocols;
- the 1972 Biological Weapons Convention;
- the 1980 Conventional Weapons Convention and its five protocols;
- the 1993 Chemical Weapons Convention;
- the 1997 Ottawa Convention on anti-personnel mines;

Many provisions of international humanitarian law are now accepted as customary law – that is, as general rules by which all States are bound.

When does international humanitarian law apply?

International humanitarian law applies only to armed conflict; it does not cover internal tensions or disturbances such as isolated acts of violence. The law applies only once a conflict has begun, and then equally to all sides regardless of who started the fighting.

International humanitarian law distinguishes between international and non-international armed conflict. International armed conflicts are those in which at least two States are involved. They are subject to a wide range of rules, including those set out in the four Geneva Conventions and Additional Protocol I.

Non-international armed conflicts are those restricted to the territory of a single State, involving either regular armed forces fighting groups of armed dissidents, or armed groups fighting each other. A more limited range of rules apply to internal armed conflicts and are laid down in Article 3 common to the four Geneva Conventions as well as in Additional Protocol II.

It is important to differentiate between international humanitarian law and human rights law. While
some of their rules are similar, these two bodies of law have developed separately and are contained in different treaties. In particular, human rights law – unlike international humanitarian law – applies in peacetime, and many of its provisions may be suspended during an armed conflict.

What does international humanitarian law cover?

International humanitarian law covers two areas:

- the protection of those who are not, or no longer, taking part in fighting;
- restrictions on the means of warfare – in particular weapons – and the methods of warfare, such as military tactics.

What is “protection”?

International humanitarian law protects those who do not take part in the fighting, such as civilians and medical and religious military personnel. It also protects those who have ceased to take part, such as wounded, shipwrecked and sick combatants, and prisoners of war.

These categories of person are entitled to respect for their lives and for their physical and mental integrity. They also enjoy legal guarantees. They must be protected and treated humanely in all circumstances, with no adverse distinction.

More specifically; it is forbidden to kill or wound an enemy who surrenders or is unable to fight; the sick and wounded must be collected and cared for by the party in whose power they find themselves. Medical personnel, supplies, hospitals and ambulances must all be protected.

There are also detailed rules governing the conditions of detention for prisoners of war and the way in which civilians are to be treated when under the authority of an enemy power. This includes the provision of food, shelter and medical care, and the right to exchange messages with their families.

The law sets out a number of clearly recognizable symbols which can be used to identify protected people, places and objects. The main emblems are the red cross, the red crescent and the symbols identifying cultural property and civil defence facilities.

What restrictions are there on weapons and tactics?

International humanitarian law prohibits all means and methods of warfare which:

- fail to discriminate between those taking part in the fighting and those, such as civilians, who are not, the purpose being to protect the civilian population, individual civilians and civilian property;
- cause superfluous injury or unnecessary suffering;
- cause severe or long-term damage to the environment.

Humanitarian law has therefore banned the use of many weapons, including exploding bullets, chemical and biological weapons, blinding laser weapons and anti-personnel mines.

Is international humanitarian law actually complied with?

Sadly, there are countless examples of violation of international humanitarian law. Increasingly, the victims of war are civilians. However, there are important cases where international humanitarian law has made a difference in protecting civilians, prisoners, the sick and the wounded, and in restricting the use of barbaric weapons.

Given that this body of law applies during times of extreme violence, implementing the law will always be a matter of great difficulty. That said, striving for effective compliance remains as urgent as ever.

What should be done to implement the law?

Measures must be taken to ensure respect for international humanitarian law. States have an obligation to teach its rules to their armed forces and the general public. They must prevent violations or punish them if these nevertheless occur.

In particular, they must enact laws to punish the most serious violations of the Geneva Conventions and Additional Protocols, which are regarded as war crimes. The States must also pass laws protecting the red cross and red crescent emblems.

Measures have also been taken at an international level: tribunals have been created to punish acts committed in two recent conflicts (the former Yugoslavia and Rwanda). An international criminal court, with the responsibility of repressing inter alia war crimes, was created by the 1998 Rome Statute.

Whether as individuals or through governments and various organizations, we can all make an important contribution to compliance with international humanitarian law.

07/2004
Human Rights

What Are Human Rights?

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.

International Human Rights Law

International human rights law (../../universal-declaration/foundation-international-human-rights-law/index.html) lays down the obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

One of the great achievements of the United Nations is the creation of a comprehensive body of human rights law—a universal and internationally protected code to which all nations can subscribe and all people aspire. The United Nations has developed a broad range of internationally accepted rights, including civil, cultural, economic, political and social rights. It has also established mechanisms to promote and protect these rights and to assist states in carrying out their responsibilities.
The foundations of this body of law are the Charter of the United Nations and the Universal Declaration of Human Rights, adopted by the General Assembly in 1945 and 1948, respectively. Since then, the United Nations has gradually expanded human rights law to encompass specific standards for women, children, persons with disabilities, minorities and other vulnerable groups, who now possess rights that protect them from discrimination that had long been common in many societies.

**Universal Declaration of Human Rights**

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 by General Assembly resolution 217 A (III) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. Since its adoption in 1948, the UDHR has been translated into more than 500 languages – the most translated document in the world - and has inspired the constitutions of many newly independent States and many new democracies. The UDHR, together with the International Covenant on Civil and Political Rights and its two Optional Protocols (on the complaints procedure and on the death penalty) and the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, form the so-called International Bill of Human Rights.

**Economic, social and cultural rights**

The International Covenant on Economic, Social and Cultural Rights entered into force in 1976. The human rights that the Covenant seeks to promote and protect include:

- the right to work in just and favourable conditions;
- the right to social protection, to an adequate standard of living and to the highest attainable standards of physical and mental well-being;
- the right to education and the enjoyment of benefits of cultural freedom and scientific progress.

**Civil and political rights**

The Covenant deals with such rights as freedom of movement; equality before the law; the right to a fair trial and presumption of innocence; freedom of thought, conscience and religion; freedom of opinion and expression; peaceful assembly; freedom of association; participation in public affairs and elections; and protection of minority rights. It prohibits arbitrary deprivation of life; torture, cruel or degrading treatment or punishment; slavery and forced labour; arbitrary arrest or detention; arbitrary interference with privacy; war propaganda; discrimination; and advocacy of racial or religious hatred.

Human Rights Conventions


Human Rights Council

The Human Rights Council (http://www.ohchr.org/EN/hrbodies/hrc/pages/hrcindex.aspx), established on 15 March 2006 by the General Assembly and reporting directly to it, replaced the 60-year-old UN Commission on Human Rights (http://www.ohchr.org/EN/HRBodies/CHR/Pages/CommissionOnHumanRights.aspx) as the key UN intergovernmental body responsible for human rights. The Council is made up of 47 State representatives and is tasked with strengthening the promotion and protection of human rights around the globe by addressing situations of human rights violations and making recommendations on them, including responding to human rights emergencies.

The most innovative feature of the Human Rights Council is the Universal Periodic Review (http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx). This unique mechanism involves a review of the human rights records of all 192 UN member states once every four years. The Review is a cooperative, state-driven process, under the auspices of the Council, which provides the opportunity for each state to present measures taken and challenges to be met to improve the human rights situation in their country and to meet their international obligations. The Review is designed to ensure universality and equality of treatment for every country.

UN High Commissioner for Human Rights

The United Nations High Commissioner for Human Rights (http://www.ohchr.org/EN/AboutUs/Pages/HighCommissioner.aspx) exercises principal responsibility for UN human rights activities. The High Commissioner is mandated to respond to serious violations of human rights and to undertake preventive action.

The Office of the High Commissioner for Human Rights (OHCHR) (http://www.ohchr.org/EN/Pages/Home.aspx) is the focal point for United Nations human rights activities. It serves as the secretariat for the Human Rights Council, the treaty bodies (expert committees that monitor treaty compliance) and other UN human rights organs. It also undertakes human rights field activities.

Most of the core human rights treaties have an oversight body which is responsible for reviewing the implementation of that treaty by the countries that have ratified it. Individuals, whose rights have been violated can file complaints directly to Committees overseeing human rights treaties.
Human Rights and the UN System

Human rights is a cross-cutting theme in all UN policies and programmes in the key areas of peace and security, development, humanitarian assistance, and economic and social affairs. As a result, virtually every UN body and specialized agency is involved to some degree in the protection of human rights. Some examples are the right to development (http://www.un.org/documents/ga/res/41/a41r128.htm), which is at the core of the Sustainable Development Goals (http://www.un.org/sustainabledevelopment/sustainable-development-goals/); the right to food, championed by the UN Food and Agriculture Organization, labour rights, defined and protected by the International Labour Organization, gender equality, which is promulgated by UN Women, the rights of children, indigenous peoples, and disabled persons.

Human rights day (http://www.un.org/en/events/humanrightsday/) is observed every year on 10 December.

Resources:

- Status of Ratification of 18 International Human Rights Treaties (http://indicators.ohchr.org/)
- Human Rights Indicators (http://www.ohchr.org/EN/Issues/Indicators/Pages/HRIndicatorsIndex.aspx)
- Universal Human Rights Index (http://uhri.ohchr.org/en/)
The Arms Trade Treaty’s Obligations on Counterterrorism and Transnational Organized Crime (unpublished memo)

This summary provides an overview of States Parties’ counterterrorism and transnational organized crime obligations under the Arms Trade Treaty (ATT), with a particular focus on Article 7(1)(b)(iii–iv).

**Counterterrorism, Transnational Organized, Crime, and the ATT**

With respect to counterterrorism and transnational organized crime, Article 7 of the ATT reads as follows:

1. If the export is not prohibited under Article 6, each exporting State Party ... shall ... assess the potential that the conventional arms or items:
   d. would contribute to or undermine peace and security;
   e. could be used to:
   ...
   iii. commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party; or
   iv. commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.¹

The text of the Treaty, in other words, requires that a State Party evaluate its own obligations based on the international conventions or protocols relating to terrorism, as well as those international conventions or protocols relating to transnational organized crime, to which it is a party.

Notably, the ATT does *not* make a broader statement regarding states’ counterterrorism or transnational organized crime obligations writ large. Rather, the ATT specifically calls for consideration of “international treaties and protocols.”² Arguably, the ATT does *not* require States Parties to consider UN Security Council resolutions relating to these issues: these resolutions do not, themselves, constitute international conventions or protocols.

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¹ 2013 Arms Trade Treaty, Article 7(1).
² 2013 Arms Trade Treaty, Article 7(1)(b)(iii).
Some might argue that because these resolutions arise out of the UN Charter and states’ obligations under the Charter, they rise to the same level. Still, this is probably the more tenuous interpretation. And, given the enormous proliferation and complexity of UN Security Council resolutions on these issues, it is probably most practical to read the treaty as excluding those resolutions.

Further, the ATT specifically refers to international conventions and protocols. This shows that the Treaty’s focus is on bilateral, multilateral, regional, and/or global agreements. Though states must, of course, comply with their own domestic law as well, the Treaty does not purport to govern that, instead requiring states to account for the international agreements into which they have entered with respect to (counter)terrorism and transnational organized crime.

**Counterterrorism Conventions and Protocols**

Given that the ATT requires States Parties to consider their counterterrorism obligations under international conventions and protocols, this section will then provide an overview of those conventions and protocols. According to the Security Council’s Counter-Terrorism Committee (CTC), there are currently 19 “universal legal instruments and additional amendments dealing with terrorism.”³ They are the following:

1) **Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft (2014)**⁴: Though this protocol has yet to enter into force, and “expands the jurisdiction over offences and acts committed on board aircraft from the State of registration of the aircraft to the State of the Operator (where the offence is committed on an aircraft leased without crew to a lessee whose principal place of business is, or who permanently resides, in that State), and the State of Landing (where the aircraft has its last point of take-off or next point of intended landing within its territory and the aircraft subsequently lands in its territory with the alleged offender still on board).”⁵

2) **Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (2010)**⁶: This protocol, which supplements the Convention for the Suppression of

³ [https://www.un.org/sc/ctc/resources/international-legal-instruments/](https://www.un.org/sc/ctc/resources/international-legal-instruments/)
Unlawful Seizure of Aircraft, expands the scope of the earlier convention “to cover different forms of aircraft hijackings, including through modern technological means.”

3) **Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (2010):** This convention criminalizes the use of civil aircraft as a weapon, as well as the use of civil aircraft to “discharge biological, chemical and nuclear (BCN) weapons or similar substances.” As with many of the other counterterrorism conventions, this convention requires that states parties make these crimes punishable by “severe penalties” and commit to extradite or prosecute suspected offenders.

4) **Amendments to the Convention on the Physical Protection of Nuclear Material (2005):** These amendments modify states’ obligations under the 1980 Convention. The amended text explicitly references terrorism, states’ counterterrorism obligations, and the “worldwide escalation of acts of terrorism in all its forms and manifestations, and ... the threats posed by international terrorism and organized crime.”

5) **Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005):** This convention supplements the 1988 Convention, but additionally criminalizes the “use of a ship as a device to further an act of terrorism,” as well as the transport on a ship of materials with knowledge they will be used to further an act of terrorism and of people who have committed an act of terrorism.


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7 [https://www.un.org/sc/ctc/resources/international-legal-instruments/](https://www.un.org/sc/ctc/resources/international-legal-instruments/)
11 [https://www.iaea.org/sites/default/files/infcirc274r1m1.pdf](https://www.iaea.org/sites/default/files/infcirc274r1m1.pdf)
12 [https://www.iaea.org/sites/default/files/infcirc274r1m1.pdf](https://www.iaea.org/sites/default/files/infcirc274r1m1.pdf), Amended Preamble.
7) **International Convention for the Suppression of Acts of Nuclear Terrorism (2005)**: This convention covers a broad range of acts, including possession of nuclear material or a nuclear device that causes (or with the intent to cause) damage or harm. Like earlier treaties, this convention requires that states extradite or prosecute offenders, and that states assist one another in these criminal law efforts.

8) **International Convention for the Suppression of the Financing of Terrorism (1999)**: This is the first of the conventions to explicitly mention “terrorism” in its title. This convention requires states parties to “take steps to prevent and counteract the financing of terrorists, whether direct or indirect,” as well as to “hold those who finance terrorism criminally, civilly or administratively liable for such acts.” In addition, the convention enables states to identify, freeze, and seize “funds allocated for terrorist activities.”

9) **International Convention for the Suppression of Terrorist Bombings (1997)**: This is the first of the conventions to explicitly mention “terror” in its title. The treaty creates a “regime of universal jurisdiction over the unlawful and intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury, or with intent to cause extensive destruction of the public place.” Because this particular treaty goes to great lengths to define the acts covered by the universal jurisdiction regime established, it comes closer than most of the treaties to, by implication, providing a definition for at least some kinds of terrorism.

10) **Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)**: This treaty is meant to control and limit the use of plastic explosives—particularly of the unmarked and undetectable varieties. With that in mind, the treaty requires states parties to “ensure effective control” over plastic explosives and to prohibit and prevent the manufacture and movement of unmarked plastic explosives in their territory. The treaty explicitly acknowledges states parties’ “deep concern regarding terrorist acts,” particularly since “plastic explosives have been used for such terrorist acts.”

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11) **Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf (1988):** This convention lays out similar rules as the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, but specifically regarding fixed platforms. This question, however, does not explicitly mention terrorism.

12) **Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988):** This treaty sets up a legal regime regarding maritime navigation that is similar to parallel regimes for international aviation. Though the treaty is not solely about terrorism, the convention’s preamble specifically notes the “world-wide escalation of terrorism in all its forms,” then drawing attention to a series of unlawful acts carried out “against the safety of maritime navigation [that] jeopardize the safety of persons and property.”

13) **Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988):** This convention, which is supplemental to the 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, extends the earlier convention to cover acts of violence that cause or are likely to cause serious injury or death and the destruction of or damage to airport facilities, when such acts take place at an airport serving international civil aviation and endanger or are likely to endanger safety at that airport.

14) **Convention on the Physical Protection of Nuclear Material (1980):** Though this convention does not mention terrorism/terrorists/terror, it addresses the need for interstate cooperation on the protection of nuclear material to avoid the theft of such materials, given the “potential dangers posed by the unlawful taking and use of nuclear material.”

15) **International Convention Against the Taking of Hostages (1979):** This convention explicitly requires the “prevention, prosecution and punishment of all acts of taking of
hostages as manifestations of international terrorism.”\(^\text{30}\) As with many other related treaties, this convention requires that states extradite or prosecute offenders, and that states afford on another assistance in their efforts to comply with the treaty.\(^\text{31}\)

16) **Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973)**\(^\text{32}\): Though this treaty does not explicitly mention terrorism, it requires states parties to criminalize the commission of a series of acts carried out against “internationally protected persons,” including heads of state, heads of government, their families, and state representatives or officials, among others.\(^\text{33}\)

17) **Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971)**: This convention makes it an offense for anyone to “unlawfully and intentionally ... perform[an] act of violence against a person on board an aircraft if that act is likely to endanger safety of that aircraft [or] destro[y] an aircraft in service or caus[e] damage to such an aircraft,” or to place an explosive device on an aircraft, or to destroy or damage “air navigation facilities,” or communicate information known to be false—if those acts are “likely to endanger the safety of the aircraft in flight.”\(^\text{34}\) The convention also requires that these offenses be punishable with “severe penalties,” that states extradite or prosecute offenders, and that states assist one another in criminal proceedings.\(^\text{35}\)

18) **Convention for the Suppression of Unlawful Seizure of Aircraft (1970)**\(^\text{36}\): This convention makes it an offense for any person onboard an aircraft to “unlawfully, by force or threat thereof, or any other form of intimidation, [to] seize or exercise control of that aircraft” or to attempt to do the same.\(^\text{37}\) Having defined the offense, the convention then additionally requires parties to the treaty to punish hijackings with “severe penalties,” to prosecute or extradite offenders, and to assist one another in criminal proceedings brought under the treaty.\(^\text{38}\)


19) Convention on Offences and Certain Other Acts Committed On Board Aircraft (1963)\textsuperscript{39}: Though this convention does not explicitly mention “terror,” “terrorism,” or “counterterrorism,” the treaty authorizing the commanders of aircrafts to impose certain measures, including restraint, on anyone the commander believes has committed or is about to commit certain acts—including taking control of the aircraft and other acts associated with hijacking and terrorism.

In addition to these 19 conventions and protocols, the international community has been working to develop a comprehensive terrorism treaty—the Comprehensive Convention on International Terrorism (CCIT)—since 1966, when India first proposed the idea. However, after many rounds of negotiation, the process has essentially stalled, with states unable to agree on many of the most fundamental provisions that would enable the treaty to meaningfully add to current international law on (counter)terrorism. It is worth noting that, across these many treaties, the international community has never explicitly agreed on even a simple definition of terrorism.

Transnational Organized Crime Conventions and Protocols

The primary international instrument regarding transnational organized crime is the United Nations Convention against Transnational Organized Crime.\textsuperscript{40} “States that ratify this instrument commit themselves to taking a series of measures against transnational organized crime, including the creation of domestic criminal offences (participation in an organized criminal group, money laundering, corruption and obstruction of justice); the adoption of new and sweeping frameworks for extradition, mutual legal assistance and law enforcement cooperation; and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities.”\textsuperscript{41} In addition, that convention is supplemented by three protocols.

1) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children\textsuperscript{42} was adopted concurrently with the Convention against Transnational

\textsuperscript{39} https://treaties.un.org/doc/db/Terrorism/Conv1-english.pdf
\textsuperscript{40} 2000 UN Convention on Transnational Organized Crime.
\textsuperscript{42} 2001 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children,
Organized Crime. It, among other things, became the first international instrument to advance an agreed-upon definition of trafficking in persons, in order “to facilitate convergence in national approaches” and “protect and assist the victims of trafficking in persons with full respect for their human rights.”

2) **The Protocol against the Smuggling of Migrants by Land, Sea and Air** was also adopted concurrently with the Convention against Transnational Organized Crime. Like the Trafficking in Persons Protocol, the Protocol against the Smuggling of Migrants became the first international instrument to advance an agreed-upon definition of smuggling of migrants, which had become an increasingly significant phenomenon among organized criminal groups. As a whole, the protocol “aims at preventing and combating the smuggling of migrants, as well as promoting cooperation among States parties, while protecting the rights of smuggled migrants and preventing the worst forms of their exploitation.”

3) **The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition** was adopted several months after the Convention against Transnational Organized Crime and the two earlier protocols. The protocol aims “to promote, facilitate and strengthen cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.”

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To comply with the protocol, states parties must “adopt a series of crime-control measures and implement in their domestic legal order three sets of normative provisions: the first one relates to the establishment of criminal offenses related to illegal manufacturing of, and trafficking in, firearms on the basis of the Protocol requirements and definitions; the second to a system of government authorizations or licensing intending to ensure legitimate manufacturing of, and trafficking in, firearms; and the third one to the marking and tracing of firearms.”

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Recalling their obligation to respect and ensure respect for international humanitarian law, States strengthen controls on the transfer of weapons so that they do not end up in the hands of those who may be expected to use them to violate international humanitarian law.

31st International Conference of the Red Cross and Red Crescent, Resolution 2: 4-year action plan for the implementation of international humanitarian law, Annex 1: Action plan for implementing international humanitarian law, Objective 5: Arms transfers (adopted by consensus on 1 December 2011)

1. Introduction

When a State transfers military weapons or equipment, it is providing the recipient with the means to engage in armed conflict, the conduct of which is regulated by international humanitarian law (IHL). Under Article 1 common to the Geneva Conventions of 1949, States have an obligation to “respect and ensure respect” for IHL. To ensure that violations of IHL are not facilitated by unregulated access to arms and ammunition, it is critical that arms transfer decisions include a consideration of whether the recipient is likely to respect IHL. It is similarly crucial to ensure that violations of international human rights law are not facilitated by assessing the likelihood that the receiving State will respect human rights.

A study conducted by the ICRC in 1999 on arms availability and the situation of civilians in armed conflict found that the uncontrolled proliferation of arms and ammunition facilitates violations of IHL and other acts of wanton violence in violation of human rights law. It also leads to high levels of insecurity, which hampers humanitarian assistance, prolongs the duration of armed conflicts, and contributes to the persistence of armed violence and insecurity even after an armed conflict has ended. On the basis of these findings, the International Conference of the Red Cross and Red Crescent committed States to making respect for IHL one of the fundamental criteria on which arms transfer decisions are made, so that arms and ammunition do not end up in the hands of those who may be expected to use them to violate IHL or human rights law.

Considerable progress has been made in fulfilling this commitment. Several regional arms transfer instruments adopted over the last decade, as well as national laws and regulations, include respect for IHL and human rights law among their transfer criteria. With the adoption of the Arms Trade Treaty (ATT), which entered into force in December 2014, States have set common international standards for the transfer of conventional arms and ammunition, with the express purpose of reducing human suffering. Two key “principles” underpinning these standards and explicitly recalled in the ATT’s preamble are the twin obligations of each State to respect and ensure respect for IHL and to respect and ensure respect for human rights.
The ATT and regional instruments complement existing limits on arms transfers stemming from the obligation under common Article 1 to ensure respect for IHL. Most require that arms transfers be denied where there is a substantial level of risk that they will be used to commit serious violations of IHL or of human rights law, although the specific wording of the criteria varies from one instrument to another (see Box 1).

Now that a large number of States have made the commitment to make respect for IHL and human rights law a key consideration in their arms transfer decisions, steps must be taken to ensure that these criteria are applied in practice. This Practical Guide aims to assist States or concerned organizations in this endeavour. It provides guidance on and useful indicators for assessing the risk of arms transfers being used to violate IHL or human rights law.

### BOX 1

**Examples of IHL and international human rights law criteria in existing arms transfer instruments**

“A State Party shall not authorize any transfer of conventional arms (…) or of [ammunition/munitions, parts or components], if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party.”

Art. 6.3, Arms Trade Treaty, 2013

“1. If the export is not prohibited under Article 6, each exporting State Party, prior to authorization of the export of conventional arms (…) or of [ammunition/munitions, parts or components], under its jurisdiction and pursuant to its national control system, shall, in an objective and non-discriminatory manner, taking into account relevant factors, (…) assess the potential that the conventional arms or items:

(a) would contribute to or undermine peace and security;
(b) could be used to:

(i) commit or facilitate a serious violation of international humanitarian law;
(ii) commit or facilitate a serious violation of international human rights law;
(…)”

2. The exporting State Party shall also consider whether there are measures that could be undertaken to mitigate risks identified in (a) or (b) in paragraph 1, such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States.

3. If, after conducting this assessment and considering available mitigating measures, the exporting State Party determines that there is an overriding risk of any of the negative consequences in paragraph 1, the exporting State Party shall not authorize the export.

4. The exporting State Party, in making this assessment, shall take into account the risk of the conventional arms (…) or of [ammunition/munitions, parts or components] being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children.”

Art. 7.1 to 7.4, Arms Trade Treaty, 2013

“Criterion Two: Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law. – Having assessed the recipient country’s attitude towards relevant principles established by international human rights instruments, Member States shall:

(a) deny an export licence if there is a clear risk that the military technology or equipment to be exported might be used for internal repression;
(b) exercise special caution and vigilance in issuing licences, on a case-by-case basis and taking account of the nature of the military technology or equipment, to countries where serious violations of human rights have been established (…)”
2. The practical application of international humanitarian law and international human rights law criteria

Strict IHL and human rights law criteria, on paper, will not be effective in preventing weapons from falling into the hands of those likely to use them to commit violations unless they are applied in a rigorous and consistent manner. To assist export licensing authorities and other government officials involved in making arms transfer decisions in accordance with their international obligations (see Box 1), it is useful to have regulations or guidelines outlining the various factors that should be taken into account when assessing the risk of weapons transfers being used to violate IHL or...
human rights law. This would also contribute to the development of more systematic and objective approaches to such assessments.\(^8\)

To this end, the ICRC has produced this Practical Guide, now updated to take into account the adoption of the ATT in 2013 and other developments, and to expand the publication’s scope to cover respect for human rights law, in addition to respect for IHL.\(^9\) Section 3 below highlights some key questions to be considered in the application of IHL and human rights law criteria in arms transfer decisions.

Box 2 presents a set of indicators that States can call upon when assessing the risk that a proposed transfer of arms, ammunition or other military equipment will be used in the commission of serious violations of IHL or of human rights law. These are further elaborated in Section 4, with short explanatory comments and guiding questions. Section 5 provides a list of useful information sources.

**BOX 2**

**Indicators to assess the risk that transferred arms, ammunition or other military equipment might be used to commit serious violations of IHL or of international human rights law**

- Whether the recipient which is, or has been, engaged in an armed conflict has committed serious violations of IHL;
- Whether the recipient which is, or has been, engaged in an armed conflict has taken all feasible measures to prevent violations of IHL or cause them to cease, including by punishing those responsible;
- Whether the recipient has committed serious violations of human rights law;
- Whether the recipient has taken all feasible measures to prevent human rights violations or cause them to cease, including by punishing those responsible;
- Whether the recipient has made formal commitments to apply the rules of IHL and human rights law, including by adhering to the relevant treaties, and has taken appropriate measures to implement them in national legislation, policies and practices;
- Whether the recipient has in place a system of accountability for violations, including the legal, judicial and administrative measures necessary for the repression of serious violations of IHL and of human rights law;
- Whether the recipient provides training in IHL to the armed forces and other weapon bearers, and has integrated IHL into its military doctrine, manuals and instructions;
- Whether the recipient provides training in human rights law to police and other law-enforcement officials, and has integrated human rights law and standards into its law-enforcement manuals and instructions;
- Whether the recipient has taken steps to prevent the recruitment of children into the armed forces or armed groups and their participation in hostilities;
- Whether accountable authority structures exist with the capacity and will to ensure respect for IHL and international human rights law;
- Whether the arms, ammunition or military equipment requested are commensurate with the operational requirements and capacities of the stated end-user;
- Whether the recipient maintains strict and effective control over its arms, ammunition and military equipment and their further transfer.
Gender and Gender-Based Violence

Summary:
This session will provide definitions and shared understandings of gender and GBV conceptually, as well as discuss the global ubiquity and prevalence of GBV.

Guiding questions:
- Why is it important to understand exactly what gender and GBV are?
- How can you know if an act of violence is GBV or unrelated to gender?
- Why might GBV be underreported globally? What are some ways that States’ laws and policies discourage reporting of GBV? How could these laws and policies change in order to encourage reporting of GBV?

Readings:
- World Health Organization, “Gender, Women and Health: What do we mean by ‘sex’ and ‘gender’?” 2019 (entire document)
- Stanford University, “What is the difference between sex assigned at birth and gender identity?” (entire video)
- Control Arms, How to use the Arms Trade Treaty to address Gender-Based Violence: A Practical Guide for Risk Assessment, 2018 (extracts)
- Reaching Critical Will, Preventing Gender-based Violence through Arms Control, 2016 (extracts)
- The United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences, 15 Years of the United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences, 2009 (extracts)
Gender, women and health

What do we mean by "sex" and "gender"?

Sometimes it is hard to understand exactly what is meant by the term "gender", and how it differs from the closely related term "sex".

"Sex" refers to the biological and physiological characteristics that define men and women.

"Gender" refers to the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women.

To put it another way:

"Male" and "female" are sex categories, while "masculine" and "feminine" are gender categories.

Aspects of sex will not vary substantially between different human societies, while aspects of gender may vary greatly.

Some examples of sex characteristics:

- Women menstruate while men do not
- Men have testicles while women do not
- Women have developed breasts that are usually capable of lactating, while men have not
- Men generally have more massive bones than women

Some examples of gender characteristics:

- In the United States (and most other countries), women earn significantly less money than men for similar work
- In Viet Nam, many more men than women smoke, as female smoking has not traditionally been considered appropriate
- In Saudi Arabia men are allowed to drive cars while women are not
- In most of the world, women do more housework than men
Gender, equity and human rights

Gender

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**Gender**—gender requires us to ensure that health policy, programmes, services and delivery models are responsive to the needs of women, men, girls and boys in all their diversity.

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**Gender** refers to the socially constructed characteristics of women and men—such as norms, roles and relationships of and between groups of women and men. It varies from society to society and can be changed. While most people are born either male or female, they are taught appropriate norms and behaviours—including how they should interact with others of the same or opposite sex within households, communities and work places. When individuals or groups do not “fit” established gender norms they often face stigma, discriminatory practices or social exclusion—all of which adversely affect health. It is important to be sensitive to different identities that do not necessarily fit into binary male or female sex categories.

Gender norms, roles and relations influence people's susceptibility to different health conditions and diseases and affect their enjoyment of good mental, physical health and wellbeing. They also have a bearing on people's access to and uptake of health services and on the health outcomes they experience throughout the life-course.

There are often misconceptions about terms related to gender. Learn more by reading the glossary of terms related to gender, equity and human rights.

**Glossary of terms and tools**

**WHO's UN-SWAP Status**

(UN-SWAP). In 2016, WHO significantly improved its UN-SWAP performance, with 80% of the Performance Indicators either “Meeting” or “Exceeding Requirements” compared to 60% in 2015 and 53% in 2014. Specifically, progress was made on three Performance Indicators, with a remarkable achievement of “Exceeds Requirements” for Indicator 1. Policy and Plan, and “Meets Requirements” for Indicator 8. Resource Tracking and 14. Knowledge Management.

In 2017, only three Performance Indicators remain where WHO’s performance should improve in order to “Meet Requirements”. These are: Indicators 9. Resource Allocation, 10. Gender Architecture and Parity, and 13. Capacity Development.
How to use the Arms Trade Treaty to address Gender-Based Violence

A Practical Guide for Risk Assessment
Key definitions: Gender-based violence and violence against women

Although the term ‘gender-based violence’ is often used interchangeably with the term ‘violence against women’,4 they are not the same. Violence against women is comprehensively defined in the 1994 Declaration on the Elimination of Violence Against Women and encompasses physical, sexual and psychological violence across a range of contexts.5 For consistency with pre-existing international legal definitions, this study defines GBV as ‘violence that is directed against a person on the basis of gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. While women, men, boys and girls can be victims of GBV, women and girls are the main victims.’6

There are three important features of this definition. First, gender can be understood as the socially constructed characteristics of women and men – such as norms, roles and relationships of and between groups of women and men – that vary across societies, can be changed,7 and intersect with other factors such as race, ethnicity, religion or belief, health, status, age, class, caste, and sexual orientation and gender identity.8 Second, GBV includes not just sexual violence, but also physical, economic and emotional and psychological violence – forms of violence that are severely under-reported in most, if not all countries. Third, while GBV can be perpetrated against men and boys, it is most prevalent against women and girls and linked to social attitudes that perpetuate gender inequalities and discrimination.9 These three features make it important to address GBV as an issue in its own right, and also as a means of preventing human suffering caused by violations of IHL and IHRL.

GBV also includes homophobic and transphobic violence against those who defy gender norms.10 Other examples of GBV include domestic violence, sex trafficking, forced and early marriage, honour crimes and harmful traditional practices.11 This study mirrors the ATT’s focus on violations of international law, and therefore examines primarily sexual and physical forms of GBV,12 while noting that arms can also be implicated in serious violations of cultural, social and economic rights that may constitute GBV.13

GBV occurs in every country around the world, both in and outside of armed conflict, in the home and in the public sphere. In 2017, the World Health Organization reported that 35 per cent of women worldwide have experienced physical and/or sexual violence by a partner, or sexual violence by someone other than a partner.14 In its global report for 2016-17, Amnesty International highlighted high levels of GBV across diverse countries such as Brazil, Burundi, Egypt, El Salvador, India, Lebanon, Mexico, Namibia, New Zealand, Papua New Guinea, and the United States.

While arms are not always responsible for the threat or prevalence of GBV, there is a clear link between the risk of GBV and the use or availability of weapons, particularly of small arms and light weapons (SALW).15 For instance, in countries with high rates of female homicides, firearms are used in more than three-quarters of cases.16 SALW are also frequently used as a tool to inflict or facilitate ‘psychological violence, emotional harm, intimidation, rape, sexual abuse, coercion and other forms of violence.’17 Examples of lawful arms-holders committing sexual abuse include acts by armed Sudanese government forces against expatriate and displaced women;18 by security forces against Sri Lankan and Mexican women in detention centres, in order to procure confessions;19 by police against Kenyan women during the 2007-2008 post-election violence;20 by private security guards against Israeli women;21 and by peacekeepers across a range of contexts.22

Recent multilateral efforts, particularly through the United Nations (UN), seek to recognize and address the devastating effects of GBV. Target 5.2 of the 2030 Sustainable Development Goals (SDGs) specifically calls for the elimination of violence against women and girls.23 As the first legally binding global treaty to recognize the link between the international arms trade and GBV, the ATT is a critical contribution to global efforts to address GBV and is a further step in broader UN efforts to mainstream gender issues into global policy and practice.24
PREVENTING GENDER-BASED VIOLENCE THROUGH ARMS CONTROL

Tools and guidelines to implement the Arms Trade Treaty and UN Programme of Action
This report is about the effective implementation of the 2013 Arms Trade Treaty (ATT) and the 2001 UN Programme of Action on the illicit trade in small arms and light weapons (UNPoA) in regards to preventing gender-based violence (GBV) and gender discrimination in disarmament and arms control processes. The objective of this report is to provide tools and guidelines for effective implementation of the ATT and the UNPoA, including how to conduct an export risk assessment on GBV and how to enhance gender mainstreaming in disarmament and arms control.

The report provides an introduction to the concepts of gender and GBV, placing them in the context of conventional weapons, the ATT, and the UNPoA. It then provides an overview of current practices in export licensing, including applications and documentations, risk assessments, information sharing, monitoring, and transparency. Based on the analysis of current practice, the report then offers guidelines for assessing the risk of GBV. It covers items, intended end users, destination countries, criteria, and indicators relevant for assessing whether or not an arms transfer could result in GBV. It also provides informative guidelines for preventing GBV through arms control measures, such as legislation, national commissions, disarmament, demobilization and reintegration processes, data collection, and international aid. Finally, the report offers recommendation and resources to guide export officials in their responsibilities.

The executive summary provides a brief snapshot of each chapter; details, explanations, and resources can be found in the full report.

About gender

The ATT is the first international agreement to recognise the link between the arms trade and GBV. The UNPoA does not explicitly make the connection at all. But the connection is real, and it is not new. All conventional weapons can—and have been—used to inflict violence on people based on discriminating norms and practices relating to their specific sex or gender role in society. GBV is a human rights violation and, when carried out during armed conflict, is a violation of international humanitarian law.

Yet because it is severely underreported and underdocumented, GBV is often overlooked in arms transfer risk assessments. Including a GBV-prevention provision in the ATT makes its exclusion from risk assessments more difficult. It also highlights that arms trade, possession, and use have specific gender and power dimensions that need to be addressed. The inclusion of the GBV criterion also serves as a reminder that in accordance with UN gender mainstreaming practice, the impact on all people of all policies and programmes needs to be taken into account and power structures that might be amplified by the presence of arms need to be further examined.

The report highlights some key facts that are critical to understanding the relationship between GBV and the international arms trade and illicit trafficking in weapons:

- GBV can occur both in times of conflict and outside of conflict. There can be a pattern of GBV in the absence of other indicators of human rights violations. The absence of
generalised violence does not mean that there is no risk of GBV.

- GBV is often invisible. Patterns are difficult to establish. Even a few reports of GBV can suggest that there are patterns and can be a cause of concern, especially if combined with government acquiescence.

- All weapons covered under the ATT and UNPoA can be used to facilitate or commit GBV.

- All end users, including the army, the police, and state security services, can commit GBV. The risk of this occurring must always be assessed, as must the risk of diversion.

- GBV is a cross-cutting issue: it is always a violation of international human rights, and, depending on the circumstances, can be a violation of international humanitarian law or constitute an act of terrorism, transnational organised crime, a war crime, a crime against humanity, or genocide. It is therefore covered under both Article 6 and Article 7 of the ATT.

- GBV goes hand in hand with a lack of gender equality. Indicators on gender equality, even if not explicitly linked to arms transfers, are therefore useful in assessing the risk of GBV, especially when information on GBV is not available.

- ATT and UNPoA implementation go hand in hand. Both instruments apply to exporting and importing states. Exporting states must ensure that importing states are implementing the UNPoA and mainstreaming gender in arms control and disarmament and must also make the same efforts themselves.

**Current practice**

Different countries have different requirements for applications and end-use/r documentation, but most require some form of application to the government by a company in order for an arms deal to take place. It is at this stage that export officials must conduct a risk assessment process to determine the risk that the transfer would violate the ATT or UNPoA.

Currently, no countries explicitly include GBV in their required end-use/r documentation. Some countries or regional groups include language on human rights more broadly, particularly when it comes to the export of small arms and light weapons.

The responsibility for processing an application and deciding whether to grant or deny a transfer can lie with different governments agencies. Sometimes the process is dealt with differently if it is a commercial license or a government-to-government transfer. In some countries, there is an independent specialised export authorization agency. In other countries, decisions are made in inter-ministerial and interagency groups, with members of different ministries, such as defence, economy, and foreign affairs. Most export control officers do not have specialised expertise in gender, but can consult with gender experts. Often, they have general knowledge of international law.
What is gender?

Gender does not refer to biological sex, but rather to socially constructed ideas that attribute meaning to and differentiate between sexes. Socially constructed understandings of gender affect perceptions of social roles, behaviour, and identity, and have implications for relations between people. Using a gender perspective means examining how these constructed gender roles might affect policy decisions or budgets. It also means being sensitive to the fact that women and men may be differently affected, may play different roles, and may have different experiences in a particular situation due to their sex or expectations about gender. Questions of gender do not exclusively concern women, but all sexes and sexual and gender identities. It is also important to recognise that “women” are not a single homogeneous social category. Women are of different ages, races, ethnicities, religions, and sexualities; are differently abled; have different political views, socioeconomic statuses, and experiences. As a result of this, women have different experiences before, during, and after armed conflict and armed violence.

What is gender-based violence?

Gender-based violence (GBV) is the most prevalent form of violence in the world. It exists and is widespread in all countries and all societies. GBV is violence that is directed at a person based on discriminating norms and practises relating to her or his specific sex or gender role in society. It is linked to the gendered identity of being a woman, man, intersex, transsexual, or transgendered. The term GBV recognises that violence takes place as a result of unequal power relations and discrimination in society on the basis of one’s sex or gender. There are different types of GBV that can be grouped into these four categories:

- **Sexual violence**: Sexual harassment, rape, forced prostitution, sexual violence during conflict and harmful customary or traditional practices such as female genital mutilation, forced marriages, and honour crimes
- **Physical violence**: Physical assault, domestic violence, human trafficking and slavery, forced sterilization, forced abortion
- **Emotional and psychological violence**: Abuse, humiliation, and confinement
- **Socioeconomic violence**: Discrimination and/or denial of opportunities and services; prevention of the exercise and enjoyment of civil, social, economic, cultural, and political rights

The most prevalent form of GBV is violence against women and girls. Its root cause lies in the unequal power relationship between men and women and it cuts across age, race, ethnicity, religion, sexuality, income level, and geographic location.
Art.7 Export and Export Assessment
Stuart Casey-Maslen, Andrew Clapham, Gilles Giacca, Sarah Parker

From: The Arms Trade Treaty: A Commentary
Andrew Clapham, Stuart Casey-Maslen, Gilles Giacca, Sarah Parker

Subject(s):
Human rights remedies — Arms control — Weapons — Humanitarian intervention — International peace and security
Gender-Based Violence

7.100 According to the Inter-Agency Standing Committee (IASC)’s Guidelines for Gender-based Violence Interventions in Humanitarian Settings, gender-based violence \cite{150} 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’. \cite{151} As the IASC has observed:

[t]he term ‘gender-based violence’ is often used interchangeably with the term ‘violence against women.’ The term highlights the gender dimension of these types of acts; in other words, the relationship between females’ subordinate status in society and their increased vulnerability to (p. 278) violence. It is important to note, however, that men and boys may also be victims of gender-based violence, especially sexual violence. \cite{152}

In its Resolution 2106 (2013) on women, peace, and security, the UN Security Council expressly noted that ‘sexual violence in armed conflict and post-conflict situations disproportionately affects women and girls, as well as groups that are particularly vulnerable or may be specifically targeted, while also affecting men and boys and those secondarily traumatized as forced witnesses of sexual violence against family members’. \cite{153} The resolution noted ‘the provision in the Arms Trade Treaty that exporting States Parties shall take into account the risk of covered conventional arms or items being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children’. \cite{154}

7.101 According to Freedom House, an international human rights non-governmental organization (NGO):

Lesbian, gay, bisexual, transgender and intersex (LGBTI) people around the world face discrimination, persecution and violence simply for expressing who they are and choose to love. Consensual same-sex conduct is criminalized in more than 70 countries, with punishment including fines, flogging, and imprisonment and in seven countries, the death penalty. Laws that treat LGBTI people as criminals dehumanize them, reinforce stigma and prejudice, and provide legal cover for serious human rights violations. LGBTI people are targets for torture or ill-treatment by the government not only for their political beliefs or activism but also for their identity. \cite{155}

7.102 Freedom House further state that: ‘For many, violence begins at home, in the classrooms and halls of schools, at the workplace, and in the streets. Lesbians, in particular, are the victims of grave human rights violations, including “corrective rape”, forced pregnancy, and “honour killing”, not only because of their sexual orientation but also because of their gender.’ \cite{156}

7.103 The NGO Reaching Critical Will affirms that gender-based violence:

is violence that is directed at a person based on her or his specific sex or gender role in society. It is linked to the gendered identity of being a woman, man, intersex, transsexual, or transgendered. The term GBV recognises that violence takes place
as a result of unequal power relations and discrimination in society on the basis of one’s sex or gender.

Such gender-based violence can be grouped into these four categories:

- **Sexual violence**: Sexual harassment, rape, forced prostitution, sexual violence during conflict, and harmful customary or traditional practices such as female genital mutilation, forced marriages, and honour crimes.

- **Physical violence**: Physical assault, domestic violence, human trafficking and slavery, forced sterilization, forced abortion.

(p. 279) • **Emotional and psychological violence**: Abuse, humiliation, and confinement.

- **Socio-economic violence**: Discrimination and/or denial of opportunities and services; prevention of the exercise and enjoyment of civil, social, economic, cultural, and political rights. 157

7.104 In her annual report to the Human Rights Council in 2011, the UN High Commissioner for Human Rights stated that:

The application of international human rights law is guided by the principles of universality and non-discrimination enshrined in article 1 of the Universal Declaration of Human Rights, which states that ‘all human beings are born free and equal in dignity and rights’. All people, including lesbian, gay, bisexual and transgender (LGBT) persons, are entitled to enjoy the protections provided for by international human rights law, including in respect of rights to life, security of person and privacy, the right to be free from torture, arbitrary arrest and detention, the right to be free from discrimination and the right to freedom of expression, association and peaceful assembly.158

7.105 She further observed that: ‘Homophobic and transphobic violence has been recorded in all regions. Such violence may be physical (including murder, beatings, kidnappings, rape and sexual assault) or psychological (including threats, coercion and arbitrary deprivations of liberty). These attacks constitute a form of gender-based violence, driven by a desire to punish those seen as defying gender norms.’159

7.106 In a 2010 resolution, the Council of Europe’s Parliamentary Assembly called on member states to ‘recognize that lesbian, bisexual and transgender women face an increased risk of gender-based violence (in particular rape, sexual violence and harassment, as well as forced marriages) and provide protection commensurate with the increased risk’.160 In Africa, in 2014 the African Commission on Human and Peoples’ Rights adopted a resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity in which it condemned ‘the increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary imprisonment and (p. 280) other forms of persecution of persons on the basis of their imputed or real sexual orientation or gender identity’.161 The resolution strongly urged states:

to end all acts of violence and abuse, whether committed by State or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper
investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.\textsuperscript{162}

7.107 In the realm of IHL, Common Article 3 to the 1949 Geneva Conventions, a minimum yardstick in all armed conflicts,\textsuperscript{163} requires that each Party to the conflict apply, as a minimum, the following provisions: ‘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 … sex … or any other similar criteria.’ Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; and outrages upon personal dignity, in particular humiliating and degrading treatment are all acts that are prohibited ‘at any time and in any place whatsoever’.\textsuperscript{164}

The Definition of Violence

7.108 There is no accepted definition of violence under international law. According to the World Health Organization (WHO), however, it is ‘the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation’.\textsuperscript{165} In its report entitled the World Report on Violence and Health, WHO argued for a ‘typology’ of violence as a ‘useful way to understand the contexts in which violence occurs and the interactions between types of violence’.\textsuperscript{166} The typology distinguishes four modes in which violence may be inflicted: physical, sexual, and psychological attack, and deprivation. It further divides the general definition of violence into three sub-types according to the victim–perpetrator relationship:

- **Self-directed violence** refers to violence in which the perpetrator and the victim are the same individual and is subdivided into self-abuse and suicide.

- **Interpersonal violence** refers to violence between individuals, and is subdivided into family and intimate partner violence and community violence. The former category includes child maltreatment; intimate partner violence; and elder abuse, while the (p. 281) latter is broken down into acquaintance and stranger violence and includes youth violence; assault by strangers; violence related to property crimes; and violence in workplaces and other institutions.

- **Collective violence** refers to violence committed by larger groups of individuals and can be subdivided into social, political, and economic violence.\textsuperscript{167}

Violence against Women

7.109 The 1993 Vienna Declaration and Programme of Action stated that ‘the human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.’\textsuperscript{168} Sexual violence is prohibited under human rights law for example through the customary law prohibition of torture and other forms of cruel, inhuman, or degrading treatment or punishment as well as through the right to privacy.

7.110 According to WHO, violence against women, particularly intimate-partner violence and sexual violence against women, are major public health problems and violations of women’s human rights. Global prevalence figures indicate that 35 per cent of women worldwide have experienced either intimate partner violence or non-partner sexual violence in their lifetime. On average, 30 per cent of women who have been in a relationship report that they have experienced some form of physical or sexual violence by their partner.
15 YEARS OF
THE UNITED NATIONS
SPECIAL RAPPORTEUR ON
VIOLENCE AGAINST
WOMEN, ITS CAUSES AND
CONSEQUENCES

The United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences
**A. DEFINITION AND SCOPE OF VIOLENCE AGAINST WOMEN**

CEDAW General Recommendation 19 on VAW views gender-based violence as a form of discrimination that constitutes a serious obstacle in the enjoyment of human rights and fundamental freedoms by women, and addresses intersections of gender-based violence with the different substantive areas covered by the articles of CEDAW. It defines gender-based violence as “violence directed against a woman because she is a woman or which affects a woman disproportionately. It includes physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.” Accordingly, it calls upon State parties to address and report on VAW within the substantive framework of CEDAW.

The Declaration on the Elimination of Violence against Women (DEVAW) provides a more comprehensive framework on VAW in terms of definition, scope, obligations of the State, and the role of the United Nations. It defines VAW to mean "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life." DEVAW further outlines the scope of private and public to include violence in the family, violence in the community, and violence perpetrated or condoned by the State, wherever it occurs.

In their reports, the Special Rapporteurs have further elaborated upon these forms of violence as follows:

- Violence in the family—such as domestic violence; battering; marital rape; incest; forced prostitution by the family; violence against domestic workers and the girl-child (non-spousal violence, violence related to exploitation); sex-selective abortion and infanticide; traditional...
practices such as female genital mutilation; dowry-related violence; and religious/customary laws

» Violence in the community—such as rape/sexual assault; sexual harassment; violence within institutions; trafficking and forced prostitution;\(^\text{12}\) violence against women migrant workers; and pornography

» Violence perpetrated or condoned by the State—such as gender-based violence during armed conflict; custodial violence; violence against refugees and internally displaced persons (IDPs); and violence against women from indigenous and minority groups

Ertürk also suggested adding the “transnational arena”, which, due to globalization and increased transnational processes, has emerged as a fourth level where women are encountering new vulnerabilities.\(^\text{13}\)

Different forms of violence continued to be addressed and elaborated upon in the documents adopted in the years that followed. For instance, the Beijing Platform for Action (PFA)—by including, among its 12 critical areas of concern, VAW, along with women and armed conflict, and the human rights of women—specified various forms of sexual assault on women that were not specifically mentioned in DEVAW. These include systematic rape and forced pregnancy during armed conflict, sexual slavery, forced sterilization and forced abortion, female infanticide, and prenatal sex selection.\(^\text{14}\) The review of the implementation of the PFA that took place at the 23rd special session of the General Assembly, in 2000, clearly demonstrated that VAW had become a priority issue on the agenda of many Member States. The outcome document of the special session on Beijing +5 went a step further in calling for the criminalization of VAW, punishable by law. Paragraph 69 (c) states that governments shall “treat all forms of violence against women and girls of all ages as a criminal offence punishable by law, including violence based on all forms of discrimination.” The document also calls for the taking of measures to address VAW resulting from prejudice, racism and racial discrimination, xenophobia, pornography, ethnic cleansing, armed conflict, foreign occupation, religious and anti-religious extremism, and terrorism.\(^\text{15}\)

DEVAW and other documents pay specific attention to the increased risk of violence against women on account of marginalized status, location or context. Resolutions on the mandate of the SRVAW have likewise addressed forms of VAW on various grounds, thereby reinforcing this approach.

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\(^{13}\) See Ertürk’s first report to the CHR, “Integration of the Human Rights of Women and the Gender Perspective: Violence against Women”, E/CN.4/2004/66. This issue will be further developed in Ertürk’s last report on “Political Economy and Violence against Women”, to be presented in 2009 as document A/HRC/11/6.


ATT Implementation and GBV Reduction and Prevention

Summary:
This session will explore how the arms trade and GBV are linked. We will discuss how effective implementation of the ATT can lead to a reduction in the prevalence of GBV.

Guiding Questions:

- How are the arms trade and GBV linked? What types of examples can you think of?
- What are the ways in which effective ATT implementation could help address GBV?

Readings:

- Control Arms, *How to use the Arms Trade Treaty to address Gender-Based Violence: A Practical Guide for Risk Assessment*, 2018 (extracts)

- Women’s International League for Peace and Freedom, *Preventing Gender-Based Violence Through Arms Control: Tools and guidelines to implement the Arms Trade Treaty and UN Programme of Action*, 2016 (extracts)


How to use the Arms Trade Treaty to address
Gender-Based Violence

A Practical Guide for Risk Assessment
### Types of GBV

| Sexual: rape, forced prostitution, sexual violence, forced abortion, forced sterilization, forced pregnancy |
| Physical: physical assault; human trafficking and slavery; honour killings; attacks targeting women human rights defenders, activists or politicians; attacks targeting LGBTQI individuals |

### Relevant Types of items under Article 2.1 of the ATT

- Battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, small arms and light weapons, ammunition/munitions

### Examples of incorporating Article 7.4 into assessments under Article 6.3 and Article 7.1

**Example 1: Battle tanks, armoured combat vehicles / sexual violence as torture**

In an internal armed conflict when police or military officers target women, transport them to detention centres, and perpetrate rape and other sexual violence to coerce confessions from them, the evidence suggests their vehicles and their ammunition would be used to facilitate the war crime of (rape as) torture; or, if the practice is systemic or widespread, this would also constitute torture as a crime against humanity. In either case, the transfer of the SALW and ammunition would be prohibited under Article 6.3 of the ATT.

Even if the evidence does not establish the standard of ‘would’ under Article 6.3, the SALW, security vehicles and ammunition could be used to commit or facilitate rape and sexual violence as torture committed as serious violations of IHL under Article 7.1(b)(i) of the ATT. Even if the requested transfer is for only one of these items, this would be sufficient to constitute ‘facilitation’ under Article 7.1.

**Example 2: Security vehicles, SALW, ammunition / human trafficking and enforced prostitution**

In a non-conflict country, when there is evidence that State military or law enforcement forces are involved in human trafficking and forced prostitution on a widespread basis, there is an overriding risk that their arms and ammunition could be used to commit, and their security vehicles to facilitate, the serious IHL violation of enforced prostitution under Article 7.1(b)(ii) of the ATT. Even if the requested transfer is for only one of these items, this would be sufficient to constitute ‘facilitation’ under Article 7.1.

**Example 3: Facilitation by arms and ammunition / violence perpetrated on the basis of sexual identity**

When government law enforcement officers target LGBTQI human rights defenders for arrests, and detention without criminal charges results in physical and/or sexual abuse, their arms and ammunition are being used to commit or facilitate the serious IHRL sexual and physical violations under Article 7.1(b)(ii) even if there is no incident of violence caused by firearms.

**Example 4: Use of and facilitation by arms / widespread domestic violence and homicides**

When individuals with a history of domestic or intimate partner violence can legally purchase arms and ammunition, and a high proportion of homicides in these contexts involves these items, they are being used to commit or facilitate serious acts of GBV and/or serious acts of violence against women and children that constitute serious IHRL violations (sexual and physical violence including killing) pursuant to Article 7.1(b)(iii). An export assessment for transfer of these arms and ammunition would need to consider whether the importing State has implemented mitigation measures such as mandatory background checks for arms purchases.
PREVENTING GENDER-BASED VIOLENCE THROUGH ARMS CONTROL

Tools and guidelines to implement the Arms Trade Treaty and UN Programme of Action
Article 7(4) should therefore be interpreted as a recognition that GBV is a cross-cutting issue that must be analysed under each sub-section of both Article 6 and Article 7. GBV can constitute genocide, a crime against humanity, a war crime, a violation of IHL, or a violation of international human rights law. It can undermine peace and security and contribute to terrorism or organised crime.

There are a number of indicators to mark the risk of GBV for which those conducting risk assessment processes should look. These are listed in full in the report. Some of these include:

- Is there evidence of acts or patterns of GBV, including but not limited to sexual violence or domestic violence, in the recipient country?
- Have there been reports of women being compelled to marry the perpetrator of sexual violence as a form of traditional settlement?
- Have there been reports of crimes in the name of honour?
- Have there been reports of early marriage?
- Is there resistance to women’s participation in peace processes?
- Is there a lack of presence of women in civil society organisations?
- Are there reports of high levels of sexually transmitted diseases?
- Are there reports of sexual abuse by security officers?
- Are there reports of threats to politically active women?
- Is there avoidance of markets or cross-border trade by women due to fear?
- Are there increased reports of prostitution and sex work?
- Have there been changes in school enrolment by women or girls?

For information, officials need to examine reports from the UN, governments, NGOs, and the World Bank or other financial institutions. They also need to look at the recipient country’s legislation, initiatives, police and military practices and training, and statistics on GBV as well as equality of women and LGBT people.

Implementing the UNPoA to prevent GBV

The legal arms trade fuels the illicit trade in small arms and light weapons. ATT and UNPoA implementation must form part of an integrated approach to prevent GBV. Importing states must strengthen both import controls and national small arms control efforts, while exporting states must assess importing states’ implementation of the UNPoA in their risk assessment under the ATT. Effective implementation of the UNPoA will reduce the availability of guns and therefore help prevent GBV.

While the UNPoA itself makes no mention of gender, and references women only once in the preamble, it does commit states to make “greater efforts to address problems related to human and sustainable development” and to promote conflict prevention and address its root causes, which should include promoting gender equality and preventing GBV. Gender mainstreaming is crucial to these efforts. Gender mainstreaming refers to the process of:

- Assessing the implications for women and men of any planned action, including legislations, policies or programs in all areas and at all levels; and
- Making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated.
The UN Security Council and the UN Secretary-General have emphasised the need for gender mainstreaming in small arms control for several years. The Global Study on the implementation of UN Security Council resolution (UNSCR) 1325, commissioned by the UN Secretary-General and published in 2015, emphasises the importance of measures dealing with the proliferation of small arms and violent masculinities. A gender-sensitive approach requires the recognition that small arms possession is linked to violent masculinities and that women are not just victims, but also perpetrators of armed violence as well as members of gangs, terrorist groups, and armed forces.

Experts on GBV prevention emphasise that interventions must deal with GBV’s roots in gender discrimination and promote long-term social and cultural change towards gender equality, including through ensuring leadership and active engagement of women and girls and conducting advocacy to promote the rights of all affected populations. Data on conflict and violence prevention also show that a gender-sensitive approach makes conflict prevention interventions more effective.

To ensure effective gender mainstreaming in the implication of the UNPoA, legislators and governments must:
- Consult with women’s groups and LGBT rights groups when drafting laws on gun control, the security forces, and GBV;
- Ensure that the government, judiciary, and law enforcement are given adequate training and resources;
- Consult with women’s and LGBT rights groups and women ex-combatants in designing disarmament, demobilisation, and reintegration (DDR) programmes;
- Include women’s and LGBT rights groups in national commissions on SALW;
- Promote and support data collection on gender and the use and trade in SALW; and
- Increase funding for gender-sensitive SALW control.

Conclusion

The ATT has been called “ground breaking” for its recognition of the link between the international arms trade and GBV. However there remain many gaps in the Treaty’s implementation, partly due to time limits, export officials’ dual role as regulators and promoters of the arms industry, and lack of data and information linking GBV to specific weapons and/or end users. Embassies, country human rights teams, human rights organisations, NGOs, and UN entities must pay attention to the links between weapons, armed actors, and GBV.

In the end, it is up to licensing and export officials, as well as relevant government ministries, to make the call as to whether or not weapons will be transferred. These entities must include the prevention of GBV in their assessments in order to be in compliance with the ATT. This report aims to provide such officials with the relevant questions, resources, and tools necessary to fulfil their obligations.
Arms export authorities also examine who the end-user is intended to be, and whether that end-user is of concern. Does the intended end-user have a history of human rights abuses? In the U.K., this information can come from reports that non-governmental organisations (NGOs) have produced about end-users who have a history of human rights abuses. “You put the two together, intrusive surveillance equipment with an end-user that has a track record of human rights abuses—then that is a clear risk and that would be a refusal,” explained Reilly.

In the United States, export officials are legally obligated to look at the record of individual army units. The Leahy Law prevents weapons from going to any unit of the security forces of a foreign country if the Secretary of State has credible information that the unit has committed a gross violation of human rights. The DDTC may also put conditions on a particular sale, and require that it be used for one purpose but not another, or that it can be used by one unit and not another. Spain also examines the end-user certificate and the end-use guarantees, down to the exact unit of the army or the police.

Generally the risk assessment includes whether the end-user and the end-user destination is considered “legitimate” and whether there is no likelihood of diversion. Arms export officials also examine whether the request is credible. For example, if a small maritime unit asked a U.K. company for 3,000 radios for its own use and that seemed excessive, “we would be concerned about the risk of diversion.” Export officials might also check if the end-user is legitimate, give them a call or do a search online in order to check if they actually exist and are still alive. There are some cases in which the person who signed the EUC was either dead, or had left their position six to 12 months earlier.

Gender-based violence in risk assessment processes

81% of respondents to the Arms Trade Treaty baseline assessment survey, which includes 63 countries, stated that they already conduct risk assessments on gender-based violence (GBV). 12% do not assess the risk of GBV, and 7% did not know whether they do. Christer Ahlstrom, the director of ISP, noted that while the ATT has put “a special focus on gender-based violence,” acts of GBV were already considered violations of international humanitarian law. “I think you could say that we looked at these elements before.”

In 2015, the UK made a legislative change in parliament to incorporate the GBV criterion under UK’s Criterion 2 on international human rights, international humanitarian law, and internal repression. A UK export official remarked that the UK would refuse a license if there were concerns that a particular end-user was engaged in GBV. Reports from private individuals and NGOs showing that GBV is at “such an extreme level” and that there is “a clear risk” that providing equipment to a particular end-user would lead to GBV, “are taken very seriously and could be sufficient to refuse a license.”

None of the export officials interviewed for this study were aware of any denial based on GBV. Interviewees knew that human rights and international humanitarian law had been a point of denial but did not know about GBV specifically. The UK government refuses roughly 40 or 50 license applications per year on international human rights, international humanitarian law, or internal repression (Criterion 2 of the EU Common Position) grounds. UK refusals on human rights grounds usually relate to police brutality or police...
oppression of political groups and tend to be for small arms, body armour, radios, and equipment that could be used to round up protesters and tap phone calls. "Not all public order equipment would be refused, only where we would have concern about how the equipment would be used." Conversely, some export officials admitted that there is no risk assessment on GBV specifically. An export official from Greece noted, "We do not differentiate women from men, from children etc. It is the end-user, which is important. It is the destination which is critical, the equipment and the material that are being exported." He added that violence will "inevitably be widespread through the community as a whole, not necessarily focused on specific individuals." Though it "does not necessarily fall outside the scope of the review process, it is not a priority to deny or approve a license based on the specificity of an issue as gender-based violence. For me, it is not an issue with which I grapple on a day-to-day basis and it is not necessarily related to security." Latvia, on the other hand, conducts a risk assessment on GBV not only for exports but also for transit and transhipment. Issued licenses can be annulled, if the situation in end-user country changes. Latvia addresses the following questions among others:

- Is there evidence of acts or patterns of GBV in the recipient country?
- What is the current and past record of the proposed end-user in relation to the perpetration of GBV? Is the evidence of such violations reoccurring? Is the evidence reliable and credible?
- What has the importing state’s response been to past incidents of GBV?
- Has the importing state cooperated with other states, UN investigations, or the International Criminal Court in connection with criminal proceedings relating to GBV?
- Is there national legislation in place allowing for cooperation with international investigations and tribunals?
- Are there laws, policies, and implementation mechanisms in the importing state designed to prevent GBV?
- Are there laws, policies, and implementation mechanisms in the importing state designed to regulate the sale, transfer, and use of arms, including obligations to record, report, and document acts of armed violence?
- Is there a coordination of policies and legislation on GBV and on the possession of firearms?
- Are there vetting systems for the acquisition of firearms or the enrolment of private security companies and do they include background checks on GBV or psychological tests that would take into account risk of GBV?
- Are there mandatory firearms (private or official) removals by justice and police officers for suspects of GBV if they possess a firearm?
- Are these laws and policies implemented?
- Has the importing state taken concrete steps to implement any of the UN Security Council resolutions on women, peace and security?
- What is the importing state’s capacity to ensure that the arms or equipment transferred are used in a manner consistent with international law relevant to women’s rights and are not diverted or transferred to other destinations where they might be used for serious violations of this law?

The latest version of the User’s Guide to the EU Code of Conduct, updated in July 2015 to incorporate the ATT, added two paragraphs on GBV. The understanding was that GBV was always—albeit implicitly—covered by criterion 2, international human rights and international humanitarian law. A working group was
established on GBV, which produced and coordinated a first and second draft via email making it explicit that GBV is covered by criterion 2.89 The guide includes a list of relevant questions on international humanitarian law (IHL) and international human rights law, but this section was not updated and does not include questions specifically on GBV.90

The EU guide includes questions based on practical experience and on the questions that EU states currently address in their risk assessments.91 Though none of them are explicitly about GBV, the questions about IHL cover GBV. Currently, EU states address the following questions, which relate to GBV:

- Is there national legislation in place prohibiting and punishing violations of IHL?
- Has the recipient country put in place requirements for its military commanders to prevent, suppress and take action against those under their control who have committed violations of IHL?
- Has the recipient country ratified the Rome Statute of the International Criminal Court?
- Does the recipient country educate and train its military officers as well as the rank and file in the application of the rules of IHL?
- Has IHL been incorporated in military doctrine and military manuals, rules of engagement, instructions, and orders?
- Are there legal advisers trained in IHL who advise the armed forces?

To assess the risk of GBV, most export officials use their MFA’s human rights reports.92 MFAs often have a human rights department assessing countries’ performances against their international human rights obligations, including their obligations to prevent and punish GBV.93 Export officials also look at other government sources. Latvia consults its security and state police, its Ministry of Defence, and the EU denial database.94

Many export officials examine information from UN reports, NGO reports, and media reports. ISP in Sweden looks at UN sources for development indices and Amnesty International reports.95 In Spain, the inter-ministerial agency in charge of approving arms exports, the “Junta Interministerial para el Reguladora del Comercio Exterior y Control de Material de Defensa y Tecnologías de Doble Uso (JIMDDU)” uses NGO reports from organizations such as Amnesty International, reports of the Escola de Cultura de Pau (School for a Culture of Peace) of the Autonomous University of Barcelona, which includes information on gender-based violence, as well as reports by the Small Arms Survey, the Stockholm International Peace Research Institute (SIPRI) and the Conflict Armament Research.96 In the UK, export officials look at UN reports, NGO reports, and media reports.97 Latvia consults US risk reports, public media, Amnesty International reports, information from other EU countries, and UN and EU resolutions.98
Implementing the UNPoA to prevent gender-based violence

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While the UNPoA itself makes no mention of gender, and references women only once in the preamble, it does commit states to make “greater efforts to address problems related to human and sustainable development” (III. 17) and to promote conflict prevention and address its root causes (III.4), which should include promoting gender equality and preventing GBV.

Gender mainstreaming is crucial to these efforts. Gender mainstreaming refers to the process of:

1) Assessing the implications for women and men of any planned action, including legislations, policies or programs in all areas and at all levels; and

2) Making women’s as well as men’s concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated.274

The UN Security Council and the UN Secretary-General have emphasised the need for gender mainstreaming in small arms control for several years.275 The Global Study on the implementation of UN Security Council resolution (UNSCR) 1325, commissioned by the UN Secretary-General and published in 2015, emphasises the importance of measures dealing with the proliferation of small arms and violent masculinities.276 A gender-sensitive approach requires the recognition that small arms possession is linked to violent masculinities and that women are not just victims, but also perpetrators of armed violence as well as members of gangs, terrorist groups, and armed forces.277

Experts on GBV prevention emphasise that interventions must deal with GBV’s roots in gender discrimination and promote long-term social and cultural change towards gender equality, including through ensuring leadership and active engagement of women and girls and conducting advocacy to promote the rights of all affected populations.278 Data on conflict and violence prevention also show that a gender-sensitive approach makes conflict prevention interventions more effective.279

In 2006, the UN Coordinating Action on Small Arms (CASA) issued the “Guidelines for gender mainstreaming for the effective implementation of the UNPoA.” In 2010, UNODA/RDB and
IANSA jointly undertook to review and update the document with new developments, progress made, and lessons learned in the implementation of the UNPoA, as well as in the area of gender mainstreaming in peace and security. These guidelines should be consulted in order to better implement the UNPoA. The following section focuses on five key areas of UNPoA implementation: 1. Legislation and policies; 2. National commissions on small arms; 3. DDR processes; 4. Data collection; and 5. International aid.

Legislation and policies

Relevant UNPoA commitments

I. 22 (a) Strengthening or developing agreed norms and measures at the global, regional and national levels that would reinforce and further coordinate efforts to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects;

II. 2. To put in place, where they do not exist, adequate laws, regulations and administrative procedures to exercise effective control over the production of small arms and light weapons within their areas of jurisdiction and over the export, import, transit or retransfer of such weapons.

II. 17. To ensure, subject to the respective constitutional and legal systems of states, that the armed forces, police or any other body authorized to hold small arms and light weapons establish adequate and detailed standards and procedures relating to the management and security of their stocks of these weapons.

Legislators must consult with women’s groups and LGTB rights groups when drafting laws on gun control, the security forces, and GBV. The following are examples of legislation and policies that can help control arms and prevent GBV. In order for laws to be effective, states must ensure that the government, judiciary, and law enforcement are given adequate training and resources.

Legislation on violence against women, domestic or family violence

- **Protection orders** can include taking away an arms license or the confiscation of weapons in the home. They can be provided for in the Penal Code or in laws on violence against women. A study in the U.S. found that laws restricting access to firearms by individuals subject to a restraining order are an effective way to reduce intimate partner violence. Yet prohibiting possession of firearms without explicitly prohibiting firearm purchases as well appears to undermine the effectiveness of a restraining order law. The study suggests maintaining a registry of all firearm owners and designing methods for the accurate and real-time entry of court order data into computer systems and facilitating database sharing between courts and law enforcement agencies.

- In Australia, a five-year minimum prohibition against owning guns exists for those who are subject to restraining orders or have been convicted of any violent offence. In some of the states this has been increased to up to ten years. South Africa has similar legislation.
Legislation and policies on the security forces

• **Limit the use of arms by government forces to their service times:** preventing police, military and others from carrying weapons outside of service would help prevent diversion and armed violence in the home. In Argentina, the Ministry of National Security restricted the carrying and use of arms by security forces. The regulation refers explicitly to legislation on violence against women and family violence and established that members of the security forces are not allowed to bring their weapons home.

Gun control legislation

• **Spousal notification** is an efficient mechanism to prevent armed domestic violence and gun acquisition by people with a history of committing acts of GBV, whether or not it resulted in a conviction. For example, Canada requires current and former spouses to be notified before a gun license may be issued.

• **Background and criminal record checks** must include verifying an applicant’s past record related to family or partner violence. In the US, federal law makes it a criminal offence to possess a gun while subject to an intimate partner violence restraining order and eleven U.S. states have laws that prevent individuals with a history of intimate partner violence from purchasing or possessing an arm. In Antigua and Barbuda, anyone with a history of sexual violence is prohibited from possessing a firearm. Chile has established legislation stating that any person sanctioned under the law on domestic violence will not have access to small arms. In Nicaragua, the law states that people found guilty of domestic violence, human trafficking, and sexual violence will not have access to weapons. In Panama, people with a history of domestic violence cannot receive authorisation to carry small arms.

• **Registration of firearms** is essential for police to be able to effectively remove guns in situations of intimate partner violence and enforce prohibition orders.

• For all gun control laws, it is essential for legislators to consult women’s groups and LGBT rights groups. The Philippines recently enacted new gun laws. Women’s groups and NGOs submitted concrete proposals and worked hard to include provisions on gender and GBV in a review of the national gun laws. Yet their demands were ignored. In a meeting with 500 participants to discuss the new provisions, only five women were present.

National action plans on 1325 and SALW control

• Argentina, Australia, Belgium, Denmark, the European Union, Liberia, Lithuania, the Netherlands, Norway, Portugal, Uganda and Switzerland have specifically made the link between small arms control and gender in their national and regional plans to implement UNSCR 1325.

Consult with women’s and LGBT rights groups and women ex-combatants in designing disarmament, demobilisation, and reintegration (DDR) programmes

Relevant UNPoA Commitments

II. 21. To develop and implement, where possible, effective disarmament, demobilization and reintegration programmes, including the effective collection, control, storage and destruction of small arms and light weapons, particularly in post-conflict situations.
Limit arms exports to reduce violence against women

The availability of small arms increases sexual violence against women. Therefore, gender based violence needs to be central to international discussions on the Arms Trade Treaty (ATT), and states must act to end impunity for armed violence against women.

Marie was gang raped on 10 June 2010. "When you call for help, people hear but they don’t come out to help when there are people with guns around," she says.

Her story is one of many others in Amnesty International’s January 2011 report on Haiti, entitled “Aftershocks: Women Speak Out About Sexual Violence”. Most of the rape victims interviewed were threatened by groups of men armed with guns.

Between February 28 and March 4 2011, states gathered in New York for the Arms Trade Treaty (ATT) Preparatory Committee. Discussions on the ATT present a vital opportunity to examine the tools used to commit acts of gender-based violence - most often small arms and light weapons (SALW). Although many binding international instruments exist on gender-based violence, these have not been taken into consideration by the disarmament community.

What impact do international transfers of conventional arms and ammunitions have on women’s lives?

Marie’s story reveals the invisible impact of armed violence: its impact on women’s minds, bodies and freedom. High death and injury rates of men are the most obvious and visible effects of gun violence. Yet what fails to appear in statistics is when guns are not used to kill but to exert power; when guns are used behind closed doors to subjugate family members; when guns are used to threaten adolescent girls with sexual violence, forcing entire families to flee. What we fail to talk about, when we talk about small arms, are the rapes of tens of thousands of women at gunpoint.

There is a strong correlation between carrying small arms and notions of masculinity, considered to be traditional “gun-culture”. Armed conflict can change men’s views about what qualifies as masculine behaviour: group pressure can amplify men’s aggressiveness and inclination to treat women as inferior. Since almost all men are armed in times of conflict, their weaponry can be implicated in the exercise of power over women.

In Colombia, where 60 to 70 percent of women have experienced some form of violence in their lives, the presence of guns in society is strongly linked to a patriarchal and “machista” culture, which supports the notion that men need guns to defend themselves and protect their families. Yet, instead of providing security, these guns aid and exacerbate violence against women and girls, both during and after conflicts.

During four days in the summer of 2010, a mass rape occurred in Luvungi, Eastern DRC (Democratic Republic of Congo). Nearly all of the 303 reported rapes were described as having been perpetrated by groups of two-to-six armed men, taking place in front of the women's children and husbands. It is estimated that 200 million small arms are in circulation in the Great Lakes region with a heavy concentration in the east of the DRC.
In Colombia, which has the second highest number of internally displaced people in the world after Sudan, 2 out of 10 displaced women identify sexual violence as the direct cause of their displacement. In the armed conflict, all parties use sexual violence as a weapon of war.

In Sierra Leone’s civil war between 1991 and 2002, 64,000 women and girls suffered war-related sexual violence. Testimonies of women explain how the assaults were endured at gunpoint. “They put their guns to our throats and stomachs to make sure that we followed their orders,” one woman reported.

In Libya, rape is also being used as a tactic to instill fear. “They (...) forced him to watch as two of them took turns raping the woman,” recounted a Tripoli resident describing the invasion of a family member’s home by four armed militiamen.

The UN Security Council has recognised that rape in armed conflict is a threat to international security. So why are so many guns being sold to so many countries where rape is a strategy, a tactic to dehumanise and subjugate?

“For women, war is not over when it’s over.”

It has been said that “for women, war is not over when it’s over.” According to a 2007 study from Montenegro, of 1500 women seeking assistance from women’s shelters, 90 per cent were threatened with small arms by their partners. Often, guns brought home by off-duty soldiers, police and private security guards are used to facilitate domestic violence. In her recent visit to the US, the UN Special Rapporteur on Violence against Women noted the widespread use of guns in domestic violence.

By facilitating domination and violence against women, guns are used to prevent women from exercising their basic rights on a daily basis; in the marketplaces where they trade, in the fields where they work, at water-points and along the roads where girls walk to school.

From Haiti to the Balkans, the stories repeat themselves, endlessly. Guns are being used to take away women’s rights on a massive scale. So why is gender-based violence not part of the discussion on the arms trade?

In 2009, the US reversed its position on the ATT and decided to support negotiations. This policy shift by the world’s largest arms exporter, with a $55 billion-a-year trade in conventional weapons (40 per cent of the global total), was a key step forward.

Meanwhile, the European Union recently made its internal code of conduct on arms exports legally binding in order to become a “very credible actor” as a promoter of the ATT. The 2012 negotiations will not be simple, but it is clear that to protect women’s rights, the relevant binding international instruments covering gender-based violence must be applied in arms transfer decisions.

Yet the ATT is not enough. States must also start collecting data. Without accurate data on gun possession and trafficking and their links to violence against women, it is impossible to formulate successful public policies on these issues.

Finally, states must take action to end impunity for armed violence against women and increase women’s participation in discussions on small arms policies.

This article won the atlantic-community.org’s competition: "Empowering Women in International Relations." The contest is sponsored by the U.S. Mission to NATO and the NATO Public Diplomacy Division.
Countless women and girls have been shot and killed or injured in every region of the world. Millions more live in fear of armed violence against women. Two key factors lie at the heart of these abuses: the proliferation and misuse of small arms and deep-rooted discrimination against women.

Armed violence against women is not inevitable. In many countries women have become powerful forces for peace and human rights in their communities. Their actions show how real change can be effected and women’s lives made safer.

Each of us can help put an end to the abuses highlighted in this report by joining the international campaigns to Stop Violence Against Women and to Control Arms. This report spells out the key steps you can take to help stop armed violence against women.
Women, men and guns

The relationship between women and guns is a complex one. Women are not only killed and injured by the use of weapons, they also play other roles – sometimes as perpetrators of armed violence, sometimes encouraging the use of guns, and sometimes as activists for change.

Women in many countries have become powerful forces for peace and human rights in their communities. This report includes the experiences of women who have been affected by gun violence and have decided to do something about it by calling for tougher arms controls, for safer communities, and for respect for women’s human rights. Their campaigns are working to rid not only their own lives, but also those of their families and communities of the ravages of gun violence.

However, women’s attitudes can sometimes contribute to the powerful cultural conditioning that equates masculinity with owning and using a gun, and regards gun abuse by men as acceptable. Women sometimes overtly encourage their men to fight, and, more subtly, support the attitudes and stereotypes promoting gun culture. Women and girls also actively participate in many of the world’s conflicts, either willingly, through coercion, economic pressure, or because they have been abducted and forced to serve. For some women and girls in armed groups having a gun is seen as a way of protecting themselves and acquiring greater status. However, this is frequently illusory; and many girl and women combatants continue to be abused and are forced to commit abuses themselves.

The perception that a gun provides some measure of protection can be found in many different social contexts and is not confined to situations of armed conflict. Many men carry guns as part of their perceived and constructed role as “protectors” of women; the argument used by gun lobbyists is that they need guns to protect their families from armed intruders or attackers. But the reality of gun ownership and use is very different. Thousands of men in different countries are becoming actively involved in arms control campaigns that try to achieve greater security and safety for everyone and are also joining campaigns to stop violence against women. Some men
are working alongside women specifically to challenge existing cultures of masculinity and the presumption that violence, including sexual violence, against women, is “normal” male behaviour.

Campaigns like the White Ribbon campaign, started by men in Canada to challenge men’s silent complicity in violence against women, have gained support from men in Costa Rica, Denmark, Mexico, Namibia and South Africa, among other places. At another level, male former combatants and former gang members are among the people who can act most powerfully for change in challenging the links between violent expressions of masculinity and the gun culture.

**Campaigning for change**

This report provides an overview of where two major international campaigns intersect: Control Arms – organized by Amnesty International (AI), the International Action Network on Small Arms (IANSA) and Oxfam International – and AI’s Stop Violence Against Women campaign. There is a growing acknowledgement that issues of gender need to be fully integrated into international work to stop the proliferation and misuse of small arms and that the specifics of armed violence have often been overlooked in some campaigns to address violence against women. More detailed analyses of many of these issues can be found in the reports published as part of the Control Arms and Stop Violence Against Women campaigns.

**Chapters 2 to 6** describe how guns affect women in the home, in their interaction with law enforcers, in communities, and in and after conflict. These chapters end with brief action points outlining the most important measures that need to be taken to tackle violence against women and the proliferation and misuse of guns in these different situations. **Chapter 7** sets out the international legal framework that informs and underpins the campaigns to Stop Violence Against Women and Control Arms. The existing standards on violence against women need to be implemented properly, and new legal standards are required to curb the proliferation of guns. But legal recommendations are not the primary purpose of this report.

**Chapter 8** looks at what we can do to stop the abuses highlighted. As well as lobbying for better laws and better implementation of existing laws, campaigners against violence against women and gun proliferation need to work to change attitudes. This is because new national and international laws, although essential, are not enough. Looking at how the myths about men, women, and guns
Violence against women in the home has for centuries been regarded as a “private” matter between the abuser, the victim and the immediate family. Women’s organizations have been demanding for decades that domestic violence be treated as a crime and a violation of women’s human rights.

All over the world, in every class, race and caste, in every religion and region, there are men who subject their intimate partners to physical or psychological violence, or both. Most violence against women is committed by the men they live with. The World Health Organization (WHO) says: “one of the most important risk factors for women – in terms of their vulnerability to sexual assault – is being married or cohabiting with a partner”. According to the WHO, refusing sex is one of the reasons women cite most often as a trigger for violence.

For centuries, women have been told that men have the right to use violence against them, and many still believe it. Women in Hawaii describe such violence as “local love... more tough and a little more physical”. A 1999 study in South Africa discovered that more than a third of women believe that if a wife does something wrong her husband has a right to punish her. And a husband’s right to punish his wife is still enshrined in the Penal Code of Zamfara State, Northern Nigeria, in a section entitled “Correction of child, pupil, servant or wife”.

Murder in the family

Family killings are the only category of homicides where women outnumber men as victims. When a woman is killed in the home, it is her partner or male relative who is most likely to be the murderer. In 2001 the French Ministry of Health reported that on average six women a month die at the hands of their current or former partners. In South Africa, the Medical Research Council calculates that on average a woman is killed by a current or former partner every six hours. In El Salvador between September 2000 and December 2001, 134 women were murdered; an estimated 98 per cent were killed by their husbands or partners.

The home is traditionally considered to be a safe haven. Yet this space where women in many societies spend a great deal of their time, and where they frequently object to the presence of weapons, exposes them to a particularly high risk of death when a gun is present. Most of the research available on what increases the risk of a woman being killed in the home has been conducted in countries of the North. Two recent studies from the USA show that:
several factors affect a woman’s chances of being killed by her husband or boyfriend, but access to a gun increases the risk five-fold.\textsuperscript{19}

having a gun in the home increased the overall risk of someone in the household being murdered by 41 per cent; but for women in particular the risk was nearly tripled (an increase of 272 per cent).\textsuperscript{20}

The proportion of domestic homicides involving guns varies across the world. In South Africa and France, one in three women killed by their husbands is shot; in the USA this rises to two in three.\textsuperscript{21}

Another study compared female homicide rates with gun ownership levels in 25 high-income countries, and found that where firearms are more available, more women are killed. In the USA, where there are high levels of gun ownership, women
were at greater risk of homicide. The USA accounted for 32 per cent of the female population in these 25 countries, but for 70 per cent of all female homicides and 84 per cent of all women killed with firearms.23

Researchers for the South African Medical Research Council stated that in 1998 the rate of firearms episodes across three South African provinces was 10 times higher than in the USA, and that 150 in every 100,000 women aged between 18 and 49 in these provinces had been the victim of a firearms-related incident.

Thus the data show that the involvement of guns makes it far more likely that an attack will prove lethal. Why are guns so deadly in domestic assaults? One reason is the severity of the wounds caused by gunshot which is highly destructive of human tissue.24 Another reason is that the presence of a firearm, with its threat of lethality, reduces a woman’s capacity for resistance. The trauma of being threatened by a husband or partner is all the greater when he brandishes a gun and there is a very real danger of being killed. The wife of a US soldier told researchers: “He would say, ‘You will do this, or...’, and he would go to the gun cabinet”.25

Guns also reduce the chances of victims escaping or of outsiders intervening to assist them. This was dramatically demonstrated on 7 August 2004, when 45-year old Marc Cécillon, five times French rugby captain, returned to a party held in his honour in his home town of Bourgoin-Jallieu near Lyon. Shortly before midnight, the hosts’ teenage son reportedly saw Marc Cécillon coming up the driveway, tucking a pistol into the waistband of his shorts. The hosts’ son ran to warn the guests, but he was too late. In the presence of 60 party-goers, Marc Cécillon approached the table where his wife Chantal was talking to friends and shot her four times with a .359 magnum, killing her instantly.26

Chantal Cécillon was killed in public, but the typical domestic killing occurs at the victim’s home. Elizabeth Mhlongo of South Africa was shot dead in her bedroom in 1999, along with her five-year-old daughter Tlaleng. Her husband Solomon, a legal gun owner, emptied a magazine of bullets into the two victims, stopped to reload and then continued firing until the gun jammed. Elizabeth was left sprawled at the side of the bed, her chest, head, thigh and hand peppered with bullets, while Tlaleng lay slumped sideways in a blood-spattered chair.27

Preventing gun violence in the home

The small arms policies most likely to reduce the risk to women in their everyday lives are those that focus on how private individuals acquire guns and how they store them.
“Our research strongly supports the need for effective firearm control in South Africa as firearms are a very important weapon used to intimidate and injure women and facilitate rape.”

South African Medical Research Council

A superintendent of the Child Protection Unit in Johannesburg, South Africa, supports a 15-year-old rape survivor.
Several countries that have reformed their domestic gun laws over the past decade have begun to see the benefits, especially for women. Between 1995, when Canada tightened its gun laws, and 2003, the overall gun murder rate dropped by 15 per cent, while the gun homicide rate for women dropped by 40 per cent. Likewise, for the five years after the gun laws in Australia were overhauled in 1996, the average gun murder rate was 45 per cent lower than it had been before the reforms. Again, the effect was more pronounced for female victims, with a drop of 57 per cent.

**Background checks to control the acquisition of weapons**

US research shows that prior domestic violence in the household makes a woman far more likely to be a victim of family homicide.

In most countries the law bans people with *serious criminal convictions* from buying or carrying guns. This usually means that when a person applies for a gun licence or tries to buy a gun, their criminal record is checked. However, such checks on their own are inadequate to stop abusive partners from acquiring guns because domestic violence so rarely results in convictions for a serious criminal offence. A vital part of overcoming the poor conviction rates is the existence of a criminal justice system that encourages women to report violence in the home, provides support for them when they do, and treats domestic violence as a serious offence. The reality is that in many countries women do not report violence in the home. Some are too fearful of their abusers to report them, others lack access to the police or justice system while others feel there is little point in reporting crimes which will not be taken seriously. A successful programme to stop gun violence in the home needs to address these wider issues of discrimination and violence against women.

Increasingly, countries are introducing restrictions to prevent gun licences being given to people who have had a *domestic violence protection order* issued against them. For example, the new Firearms Control Act in South Africa, which came into force in July 2004, specifies that a gun licence will be refused to anyone with a record of violence, including domestic violence.

Similarly, US federal law makes gun possession illegal for abusive husbands or partners who are subject to a restraining order or who have been convicted of a domestic violence misdemeanour. Although this is an important measure to protect women, its effectiveness is undermined because criminal records are the responsibility of state governments and many states do not enter details of
convictions for violence in the home into the federal database. A further loophole that allows convicted criminals to acquire guns is that the federal law does not require any background checks to be made if the purchase is being made from an individual rather than from a federally licensed dealer. While some states have enacted complementary legislation imposing mandatory background checks for any arms sale, others have not, thus leaving a loophole for abusers wishing to buy guns. Individual sales account for around 40 per cent of all gun sales in the USA.

Another way that the law can protect women from gun-related family violence is to allow the authorities to draw on a wide range of relevant information when deciding whether a gun licence should be granted. For example, Canadian gun law

“He was very angry and he took his Kalashnikov... The neighbours said: ‘Leave her alone’... But then he didn’t stop; he shot my legs, I could not feel them, they were numb. The sun was setting, I was looking at the sky, I said to the men: ‘I don’t want to die.’ They took me to the hospital.”

Fatima in her hospital bed. © AI

Nineteen-year-old Fatima (not her real name) was shot in the legs by her husband in front of his family and their neighbours in Iraq on 21 May 2003. Married at the age of 12, she was treated as a servant and regularly beaten in her husband’s family home. She tried to run away to her own family, but her husband came and said she should go back. When she refused he became very angry and took a piece of wood to beat her. It broke, so he grew even angrier and took out his gun and shot her.

Despite the number of eyewitnesses and the seriousness of the crime, neither the family nor the hospital reported the case to the police and her husband was not arrested. The family said it was a matter to be solved within the tribe. Fatima returned to her father’s house after she left hospital. Her husband expressed regret and offered her compensation, seeking reconciliation with her through the mediation of elders of her tribe. However, she refused to return to him.
requires the applicant’s current or former spouse or partner to be notified before a licence is granted or renewed. The applicant also needs a reference, usually from their spouse or partner. The New Zealand police also have the power to seek the opinion of an applicant’s current or past spouse. In Australia the opinion of the family doctor can be sought. While in Turkey applicants are required to provide a medical certificate attesting to their mental stability.

The need to disarm abusive partners

In Australia and in some US states it is compulsory for police to seize guns when a domestic violence protection order is issued – although sometimes the guns are returned shortly afterwards.

In South Africa, the Domestic Violence Act which came into force in 1999 gives police the power to remove weapons from an alleged abuser at the victim’s request. In research undertaken in the Cape Town area, the authors of a 2001 report noted that “very few weapons are ordered to be removed when compared with the number of times weapons are mentioned in the applicants’ affidavits". The authors suggested that the form used is complicated and unclear, but that also most police officers are not motivated to try and do not take violence against women as seriously as they should. As one police officer interviewed said: “You do have to confiscate weapons, but not that often. Yes there are complaints that the husband has threatened to shoot her, but he never does. It’s never serious.”

Provisions for disarming abusive husbands or partners depend on the existence of a robust firearm registration system. Registration is especially important for protecting victims of violence in the home. This was demonstrated in New South Wales, Australia, in 1992 when Kerry Anne Gannan took out a restraining order against her former partner, Malcolm Baker, for domestic violence. The law required police to cancel Malcolm Baker’s gun licence and remove his guns; but in the absence of a registration system they had no way of knowing how many guns he had. The police searched his house and found five guns, which they assumed to be the extent of his arsenal. However, Malcolm Baker had another gun which the police did not find. He used it to kill six people including Kerry Anne Gannan and her sister, who was eight months pregnant. This was not a case where the claim of domestic violence had been treated lightly, but the efforts of the police were undermined by the lack of registration.
Storing weapons safely

The availability of guns in the home can also be affected by the storage conditions prescribed in gun laws. Countries such as Australia, Canada, Japan and the UK require gun owners to store the gun securely and to keep the ammunition in a separate place. In Belarus guns must be kept in locked boxes, disassembled and unloaded, with the ammunition stored separately.\(^59\) Another measure that has been proposed by women's groups is a ban on keeping guns in private homes, at least in urban or suburban areas. The idea is that guns would be stored in secure storage facilities that comply with certain gun safety standards – for example at an authorized gun club or police station – from where their owners could retrieve them for hunting or sport.

### Australia tackles use of guns in family violence

One of the primary aims of the Australian firearms law reforms in the 1990s was to stop guns being used in violence in the home.\(^40\) The following were among the specific measures introduced to tackle the use of guns in domestic violence.

- **Gun ownership requires a licence,** obtained by meeting a series of criteria including a minimum age of 18, a clean criminal record, being a “fit and proper person”, undergoing safety training and proving “genuine reason”.
- **When deciding whether to grant or renew a licence, police can take into account all relevant circumstances.**
- **People convicted of assault are banned from having a gun licence for at least five years.**
- **People subject to domestic violence restraining orders are banned from having a gun licence for five years.**
- **People with domestic violence restraining orders against them are subject to compulsory seizure of all their guns.**
- **All guns must be registered at time of sale and when the licence is renewed.**
- **There is a 28-day waiting period to buy a gun.**
- **“Genuine reason” must be proved separately for each gun, effectively imposing a limit on the number of guns that any one person can own.**
- **Guns cannot be bought and sold privately, but only through licensed dealers or the police.**
- **There are strict requirements on how guns must be stored.**

An evaluation of the Australian reforms published in October 2004 found that the laws had produced dramatic reductions in firearm-related deaths.\(^41\)
International Law and Policy
and Gender-Based Violence

Summary:
This session will address the linkages between Article 7(4) of the ATT and other areas of international law and policy, including WPS, SDGs.

Guiding questions:

- What is the relationship between the SDGs and GBV?
- How can arms control measures help further the SDGs?
- What are the main gender-related critiques of the UNPoA?
- How does the WPS agenda inform GBV policy?

Readings:


- Sustainable Development Goals (extracts)

- UN Women, Women and the Sustainable Development Goals, SDG 11 (entire document)

- UNSC Resolution 1325 on Women, Peace and Security (highlighted extracts)

- Women’s International League for Peace and Freedom, Security Council Resolution 1325, (entire document)


- Office for Disarmament Affairs, Securing Our Common Future, An Agenda for Disarmament, 2018 (extracts)

- Reaching Critical Will, Small Arms, Big Harms: A Call to Action by Civil Society On Gender and Small Arms Control, 2018 (entire document)
WOMEN, WEAPONS, AND WAR
A gendered critique of multilateral instruments
Introduction

Synergy stems from the interaction of elements that, when combined, produce an effect that is greater than the sum of the individual elements. This paper considers synergies—and contradictions—related to gender and women in the Arms Trade Treaty (ATT), the UN Programme of Action on trade in small arms and light weapons (UNPoA), a number of UN Security Council, UN Human Rights Council, and UN General Assembly resolutions, and other relevant treaties, declarations, and commitments.

Separately, these instruments offer a piecemeal approach to recognising the impact on women of weapons use, trade, or proliferation, as well as promoting the participation of women in disarmament, non-proliferation, and arms control and in other forms of conflict prevention or resolution. In various instances, they contradict each other—some highlight women’s roles as fighters or as policymaking participants, while others categorise women only as victims rather than actors with agency.

Taken together, these instruments have a greater chance of advancing human security, including that of women, and of increasing gender diversity in various forums, negotiations, and initiatives. Some of the contradictions between the instruments considered here could be challenged and overcome if they are implemented more holistically.

However, none of these instruments confront the underlying structures or systems of the problems they are meant to address. That is, they fail to recognise the gendered power structures that prevent women’s effective participation in peace and security issues, or that generate and sustain armed conflict and armed violence in the first place.

Perhaps UN instruments are incapable of truly addressing the challenges that generate or sustain armed conflict, developed as they are within a body in which states are the principal actors, and in which security is still predominantly defined as state security defended through military means. But some states, together with civil society organisations and others engaging in the UN system, try to challenge the patriarchal militarism that has overwhelmingly dictated the terms thus far. And we must continue to do so.

Identifying synergies between existing instruments on gender, women, war, weapons, and violence—and framing them as such—is useful to this endeavour. Of course, even if packaged and implemented together we are still left with this challenge described above. Conceptualising these instruments together, though, does afford us the opportunity to consider the wider context of their development and to use those contexts to illuminate the underlying point of concern.

The provisions in these instruments collectively address many different aspects of women, weapons, war, and violence that are crucial to the work of challenging armed conflict and
armed violence, even if the stated objective of any of these instruments is not necessarily to do so.

Together, they seek to:

• prevent the impacts of the international arms trade on women, particularly in terms of gender-based violence;
• highlight the impacts on women of illicit trafficking and possession of small arms and light weapons;
• promote women’s participation in policymaking and programme design and implementation related to disarmament, non-proliferation, and arms control, with a particular focus on those policies and programmes related to small arms and light weapons; and
• recognise women’s unique experiences in war and their potential contributions to conflict prevention and resolution, as well as other aspects of peace and security.

This paper will explore existing and potential synergies between these instruments, looking at the language they contain. It will suggest where things have come together to promote a useful gendered approach to armed conflict and armed violence prevention and resolution and to disarmament and arms control. It will also examine contradictions and areas where things have gone wrong. Finally, it will offer recommendations for developing an integrated, gendered approach to armed conflict and armed violence with a view to confronting and challenging the overarching structures of patriarchal militarism.
Overview of language on women and gender in the ATT and UNPoA documents

Arms Trade Treaty (ATT)

The ATT, in preambular paragraph 10, notes that civilians, “particularly women and children, account for the vast majority of those adversely affected by armed conflict and armed violence.”

In article 7(4), the Treaty makes it mandatory for states parties to take into account the risk of “serious acts of gender-based violence or serious acts of violence against women and children” in their risk assessment processes for transferring conventional weapons, ammunition, parts, or components.

UN Programme of Action (UNPoA)

The UNPoA only mentions women once, in its preamble. It expresses grave concern about the “negative impact on women” of the illicit trade in SALW. It groups women with the elderly and also expresses concern in the same paragraph about the impact of the illicit trade on children, including child soldiers.

UNPoA Fifth Biennial Meeting of States outcome document

The latest biennial meeting of states of the UNPoA, held in June 2014, has several references to women in its outcome document. It commits states to promote the role of women in preventing, combating and eradicating the illicit trade in SALW, “including through access to training, as well as through their meaningful participation and representation in policymaking, planning and implementation processes related to the implementation of the Programme of Action, including stockpile management and physical security measures, and awareness-raising and education.” It also highlights states’ “grave concern about the devastating consequences of small arms and light weapons on civilians, particularly women and children,” as well as “the need to facilitate participation and representation of women in international cooperation and assistance for the full and effective implementation of the Programme of Action and the International Tracing Instrument.”
Victims, heroes, or invisible?
Problems in categorisation of women and the absence of gender in the ATT and UNPoA

There are some distinctly problematic tendencies in how women are categorised in both the ATT and the UNPoA, in ways that focus on their vulnerability rather than their agency. Neither instrument addresses women as militants or fighters. Only the BMS5 outcome document promotes women’s participation in SALW-related work. Neither text engages with the concept of gender, except in reference to gender-based violence in the ATT.

**Women as a vulnerable group**

Women tend to be treated in these texts as vulnerable victims, usually grouped together with children and the elderly.

Women can indeed suffer disproportionate or differential impacts from the use or proliferation of weapons, depending on circumstance. We see this most easily with guns and other small arms. The illegal or poorly regulated arms trade results in weapons flows to areas of conflict and instability in order to generate profits. These sales often result in ample access to small arms, which are used in conflict and after it to commit gender-based violence, including sexual violence.³

Outside armed conflict, the widespread possession of small arms and lights weapons leads to an increase in gender-based violence, and in particular intimate-partner violence or domestic violence.⁴ Studies show that there is a direct correlation between femicide rates and the use of firearms. Firearms were used in a third of all femicides worldwide, reaching 60% in some Latin American countries such as Brazil, Colombia, El Salvador, Guatemala, and Honduras.⁵

Even when women are not targeted for acts of gender-based violence, they can face different experiences from the use of weapons. The use of explosive weapons in populated areas, for example, can have a unique effect on women, such as in relation to their access to public places and services. Women affected by explosive violence often have fewer opportunities to engage with health care services and reconstruction processes. If heading the household, as women often do during armed conflict, they sometimes face systematic discrimination in trying to provide for their families. They also become more susceptible to further physical attack and sexual exploitation, especially when displaced from their homes.⁶

However, it is not correct that women (and children), as a particular “group” of civilians, “account for the vast majority of those adversely
affected by armed conflict and armed violence” as the ATT asserts. Women are disproportionately impacted by certain kinds of violence and do face unique consequences from armed conflict and armed violence. But the vast majority of direct victims of armed conflict and armed violence are men, and this is also a manifestation of gendered structures and norms that all of the instruments fail to address.

The framing of women as the most “adversely affected,” together with children, creates a narrative of their vulnerability in comparison to men—even though men are more likely to be the direct victims. But despite exposure to particular acts or consequences of armed conflict and armed violence, women are no more inherently vulnerable than men. Discrimination and sexism tend to make recourse to defence or remedy more difficult, but to suggest that women are more adversely affected is incorrect. Women are also not legally, politically, or physically comparable as a group to children or the elderly. Nor are women a homogenous group. Women are different ages, races, ethnicities, religions, and sexualities; are differently abled; have different political views, different socioeconomic statuses, and vastly different experiences in the world, in societies, in communities, and at home. As a result of this, women have different experiences before, during, and after armed conflict and armed violence.

To group all women together, and to group all women with children and the elderly, as vulnerable or as victims, is to strip 50% of the population of its agency and its diverse identities, experiences, and capacities. It also reinforces persistent constructions of women as the “weaker sex” in need of protection, and of men as the more “powerful” sex with a given responsibility to “protect” women.

There is a long social history to the construction of women as the “weaker sex,” especially in the
context of armed conflict.\textsuperscript{7} Even in the relatively recent Geneva Conventions, women are framed primarily as objects in need of protection and note that in all circumstances, “women shall be treated with all the regard due to their sex.”\textsuperscript{8} Whether made on the basis of a “biological” or a “social” model, the framing of women as vulnerable and in need of protection reproduces the idea that “women and children” are “innocent” while adult men are neither innocent nor vulnerable.

Assuming all military-aged men to be “potential” or actual combatants or militants entrenches a tendency to support “violent masculinities”—a social construction in which masculinity is linked with preparedness to use military action and to wield weapons. Such social constructions underpin the tendency for men to make up the majority of those participating in military roles in conflict.\textsuperscript{9} By working to entrench such essentialisms, associating maleness with militancy increases the vulnerability of men in the immediate term, exacerbating other “gender-based vulnerabilities that adult civilian males face, including risks of forced recruitment, arbitrary detention, and summary execution.”\textsuperscript{10} We can also see this in the reported policy of using maleness as a signifier of militancy in the targeting and casualty analysis of drone strikes.\textsuperscript{11} Thus while such constructions promote a masculine role of “protecting” others, they also effectively devalue male life, producing a widespread acceptance of the relative expendability of men compared to women.

Thus the automatic framing and emphasising of women as primarily vulnerable victims and innocent civilians exposes men to further violence and strips women of their agency.

**Women as participants**

Upholding ideas of women only as weak and in need of protection is an efficient way to enable their continued exclusion from authoritative social and political roles, which also weakens the potential effectiveness of those processes. The constant reproduction of these norms have concrete effects on how women are positioned in society, and as such undermine the promotion of women’s “full and effective” participation advanced in the BMS5 outcome document. BMS5 commits states to promote the role of women in preventing, combating and eradicating the illicit trade in SALW, including through access to training, as well as through their meaningful participation and representation in policymaking, planning, and implementation processes related to SALW. In contradiction to this commitment, the participation of women is not included in either the ATT or the UNPoA. In both instruments, women are treated as victims and grouped with children.

States and civil society groups alike sometimes seem to alternate their framing of women as agents and subjects depending on forum, audience, or political change being sought. This has serious implications for actual policy design and implementation. It also affects the quality of women’s participation in various situations.
The idea of what is effective participation has not been publicly raised in the development of these instruments. But it is evident that the framing of women as weak and vulnerable is often used to construct “a feminized and devalued notion of peace as unattainable, unrealistic, passive, and (it might be said) undesirable.” Ideas about gender shape, limit, and distort political discourse and political processes through which decisions are made—especially when it comes to armed conflict. The devaluation of certain perspectives, ideas, and interests because they are marked as “feminine,” coupled with the equation of masculinity with violence gives war positive value as a show of masculine power. At the same time the perception that not going to war is weak makes it more difficult for political leaders to take decisions not to embark on military action. Similarly, such constructions make it more difficult to cut military spending or engage in disarmament.

This means that even if women do participate in negotiations or discussions on matters related to peace and security, their positions or ideas are often forced to conform to the dominant perspective—underpinned by notions of violent masculinity—in order to be taken seriously. This is not to say that women bring one perspective to a conversation and men bring another. It rather highlights the gendered understandings of war and peace, disarmament and armament, strength and weakness, which dictate what is considered “acceptable” by the dominant perspective in such conversations.

Gender

Gender is not about men and women. It is about socially constructed ideas that attribute meaning to and differentiate between sexes. Gender is the range of characteristics associated with woman, intersex, man, masculine, feminine, transgender, etc. In his 2002 report Women, Peace and Security, the UN Secretary-General explains that conceptions of gender “vary according to socio-economic, political and cultural contexts, and are affected by other factors, including age, race, class and ethnicity. Gender roles are learned and are changeable.”

Socially constructed understandings of gender affect perceptions of social roles, behaviour, and identity, and have implications for relations between people. Conceptions of gender provide a way of structuring relations of power, in families, communities, societies, and subsequently also in international relations.

The instruments studied in this paper do not address gender.

Only the ATT includes the concept of gender in its provision on preventing gender-based violence (GBV). GBV is violence perpetrated against a person based on their sex (male, female, other) or gender (socially constructed conceptions of masculine and feminine). Acts of GBV disproportionately impact women and girls, but boys, men, or others can be targeted for acts of violence on the basis of their sex, sexual orientation, or gender identity. For example, men who do not conform to dominant
conceptions of masculinity, either because of their sexuality or other factors, are sometimes subject to violence on this basis. In armed conflict, men have also been systematically targeted for sexual violence.¹⁶

Having this explicit, binding criterion in the ATT on preventing GBV ensures that it should be taken into account when arms export officials are looking at compliance with international humanitarian law and international human rights law. It also requires states to act with due diligence to ensure the arms transfer will not be diverted to non-state actors such as death squads, militias, or gangs that commit acts of GBV.

Unfortunately, the threshold officials are obligated to consider is “overriding risk” rather than “substantial risk”. The ATT as such fails to sufficiently reflect existing international obligations relating to human rights law and humanitarian law and this weakness affects all of the criteria for risk assessments. The exporting state could, with reference to the ATT text, determine that some unidentified interest is more important than preventing violations of international humanitarian law and international human rights law, including GBV. Thus risk assessments will to a large extent depend on how “risk” is interpreted and assessed. Clear interpretative statements from governments and political pressure from civil society and others will remain crucial to ensuring that the most robust interpretation is implemented.

It is particularly important to maintain a focus on the issue of interpretation as the concept of GBV itself became contentious during ATT negotiations, with the Holy See working actively to mobilise opposition to its inclusion from a handful of states. They pushed for the term “violence against women” rather than “gender-based violence”. In the end, article 7(4) addresses both. This fight continued into the General Assembly in 2014 over the adoption of the resolution on women, disarmament, non-proliferation, and arms control, when the Arab Group argued that GBV should be narrowly defined as violence directed towards women because they are women, or violence that affects women disproportionately.

This is a deeply discriminatory interpretation of the concept of GBV, which in fact captures a broad range of acts of violence, as described above, having in common that they are based on socially constructed norms, perceptions, and power relations of gender—a concept that itself goes beyond sex-differences.

It is critical that other states, together with civil society, continue to push back on interpretations that try to equate GBV with, and thus limit recognition to, violence against women. Such interpretations disregard the widespread human suffering caused by other forms of gender-related violence. We must ensure the current momentum around gender and disarmament develops progressively and results in action that takes into account the human rights and security of all, not just some, people.
Other relevant instruments

Much more work is needed to overcome the dominant framing of women as merely innocent victims, to advance gender diversity in participation, and to incorporate gender perspectives into disarmament and arms control initiatives that can help reshape our understandings of available choices.

To begin this work, it is useful to explore the potential synergies between other existing instruments and the ATT and UNPoA. These include:

- UN General Assembly resolutions on women, disarmament, non-proliferation and arms control;
- UN Security Council resolutions on women, peace and security;
- UN Security Council resolutions on small arms and light weapons;
- UN Human Rights Council resolutions on arms transfers and firearms;
- Convention on the Elimination of All Forms of Discrimination against Women;
- Beijing Platform of Action;
- Convention on Cluster Munitions;
- Geneva Declaration on Armed Violence and Development; and
- Safe Schools Declaration.

**UN General Assembly resolution on women, disarmament, non-proliferation, and arms control**

The first version of this resolution, introduced to First Committee by Trinidad and Tobago in 2010, was adopted by consensus as resolution 65/69. Subsequent resolutions were adopted in 2012, 2013, and 2014. Overall the resolution commits states to promote and facilitate the participation of women in disarmament, non-proliferation, and arm control initiatives and programmes.

The latest version reflects the women, peace, and security agenda; encourages action to prevent arms transfers that could be used to facilitate gender-based violence (GBV) and violence against women and children, including through implementation of the ATT; and encourages states to strengthen the collection of sex and age disaggregated data on the impact of armed violence. These textual improvements resulted in a vote on the resolution for the first time, with several non-signatories to the ATT abstaining on the paragraph referencing the ATT.

**UN Security Council resolutions on women, peace and security (WPS)**

The so-called WPS agenda consists of eight UN Security Council resolutions (UNSCR) that seek to guide work to promote gender equality and strengthen women’s participation, protection, and rights in conflict prevention through to post-conflict reconstruction contexts.

**UNSCR 1325** (2000) represents the first time the Security Council addressed the disproportionate and unique impact of armed conflict on women. It recognises the targeting of women (and children) by combatants and the consequent adverse impacts this has on
“durable peace and reconciliation”. In this regard it calls on all parties to armed conflict to protect women and girls from gender-based violence, particularly sexual violence. It invites the UN Secretary-General to study the impact of armed conflict on women and girls, the role of women in peacebuilding, and the gender dimensions of peace processes and conflict resolution.

It also recognises the undervalued and underutilised contributions women make to conflict prevention, peacekeeping, conflict resolution, and peacebuilding. It stresses the importance of women’s equal and full participation as active agents in peace and security. It has language relating specifically to disarmament, in which it “Encourages all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependents.” It also emphasizes the need for all parties to ensure that “mine clearance and mine awareness programmes take into account the special needs of women and girls.”

UNSCR 1820 (2009) recognises sexual violence as a weapon and tactic of war. It calls for training of troops on preventing and responding to sexual violence and for more deployment of women in peace operations. It specifically requests the development of effective mechanisms for protecting women and girls from sexual violence in disarmament, demobilisation, and reintegration (DDR) processes.

UNSCR 1888 (2009) reiterates that sexual violence exacerbates armed conflict and impedes international peace and security. The resolution emphasises the importance of addressing sexual violence from the outset of peace processes and mediation efforts, including in DDR processes. It calls for the promotion of women’s leadership to address conflict-related sexual violence in peace talks, negotiations, and as peacekeepers.

UNSCR 1889 (2010) focuses on post-conflict peacebuilding and on women’s participation in all stages of peace processes. It notes that “women in situations of armed conflict and post-conflict situations continue to be often considered as victims and not as actors in addressing and resolving situations of armed conflict” and stresses the need “to focus not only on protection of women but also on their empowerment in peacebuilding.” It recognises that understanding the impact of armed conflict on women and girls can “significantly contribute to the maintenance and promotion of international peace and security” and requests that the UN Secretary-General’s country reports include information on such impacts.

It demands all parties to conflict cease any violations of applicable international law committed against women and girls in armed conflict or post-conflict situations and to end impunity for sexual violence. It also calls on those planning DDR programmes to account for the “particular needs of women and girls associated with armed forces and armed groups
and their children, and provide for full access to these programmes.”

**UNSCR 1960** (2011) reiterates the call for an end to sexual violence in armed conflict and sets up a “naming and shaming” mechanism, sending a direct political message that there are consequences for sexual violence. It doesn’t include any specific language on disarmament or arms control.

**UNSCR 2106** (2013) focuses on operationalising current obligations. It notes the ATT provision on GBV. It requests the Secretary-General and UN entities to assist national authorities in addressing sexual violence concerns in DDR processes, including by “establishing protection mechanisms for women and children in cantonment sites, as well as for civilians in close proximity of cantonment sites and in communities of return, and by offering trauma and reintegration support to women and children formerly associated with armed groups, as well as ex-combatants.”

**UNSCR 2122** (2013) explicitly affirms an “integrated approach” to sustainable peace, recognising the need to “address the gaps and strengthen the links between” peace and security, human rights, and development “as a means to address root causes of armed conflict and threats to the security of women and girls in the pursuit of international peace and security.” It acknowledges the adoption of the ATT, notes its provision on GBV, and looks forward to the “important contribution that implementation of the Arms Trade Treaty can make to reducing violence perpetrated against women and girls in armed conflict and post-conflict situations.”
UNSCR 2242 (2015) includes language on small arms, encouraging the empowerment of women to participate in efforts related to the “prevention, combating, and eradication of the illicit transfer, and the destabilizing accumulation and misuse of small arms and light weapons,” and calls on all relevant entities “to take into consideration the specific impact of conflict and post-conflict environments on women’s and girls’ security, mobility, education, economic activity and opportunities, to mitigate the risk of women from becoming active players in the illicit transfer of small arms and light weapons.”

UN Security Council resolutions on small arms and light weapons

On 26 September 2013, the UNSC adopted its first resolution on SALW. UNSCR 2117 includes some language on women. It recalls “with grave concern” that the illicit transfer, destabilising accumulation, and misuse of SALW “fuel armed conflicts and have a wide range of negative human rights, humanitarian, development and socioeconomic consequences, in particular on the security of civilians in armed conflict, including the disproportionate impact on violence perpetrated against women and girls, and exacerbating sexual and gender-based violence and the recruitment and use of children by parties to armed conflict in violation of applicable international law.”

It emphasises the importance of approaches to disarmament, demobilization, and reintegration (DDR) that, among other things, “provides for the special needs of children and women, and women’s full and effective participation in all efforts for the maintenance and promotion of peace and security, in line with UNSCR 1325.”

It urges all relevant actors to “take further measures to facilitate women’s full and meaningful participation in all policymaking, planning and implementation processes to combat and eradicate the illicit transfer, destabilising accumulation, and misuse of small arms and light weapons in all its aspects.” It also calls on all those involved in planning for DDR and justice and security sector reform efforts “to take into account the particular needs of women and children, and to provide for their full access to these programmes inter alia, through consultation with civil society, including women’s organizations, as appropriate.”

This “grave concern” about sexual and gender-based violence expressed in UNSCR 2117 is reiterated in UNSCR 2200 (2015), adopted by the UN Security Council two years later. The resolution adds new language emphasising that illicit trafficking of SALW “could harm civilians, including women and children”. It includes a truncated version of the paragraph stressing the importance “of women’s full and effective participation in all efforts related to countering the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons, in line with its resolution 1325 (2000).”

Paragraph 16 encourages member states “to better understand the impact of the illicit..."
transfer, destabilizing accumulation and misuse of small arms and light weapons on women and children, through, inter alia, strengthening the collection of data disaggregated by sex and age and developing appropriate and effective national risk assessment criteria."

In paragraph 17 the resolution calls upon all relevant actors “to take into consideration the specific impact of conflict and post-conflict environments on women’s security, mobility, economic activity and opportunities, to mitigate the risk of women from becoming active players in the illicit transfer of small arms and light weapons.”

Paragraph 18 urges all relevant actors “to take further measures to facilitate women’s full and meaningful participation in all policymaking, planning and implementation processes to combat and eradicate the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons in all its aspects, and in that regard, encourages empowering women, including through capacity building efforts, as appropriate, to participate in the design and implementation of efforts related to the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons, and calls upon all those involved in the planning for disarmament, demobilization and reintegration and justice and security sector reform efforts to take into account the particular needs of women and children associated with armed forces and armed groups, with the participation of women, and to provide for their full access to these programmes inter alia, through consultation with civil society, including women’s organizations, as appropriate."

Paragraph 26 requests the UN Secretary-General to include in his reports and briefings on country-specific situations information on the impact of the illicit trade in SALW on protection of civilians in armed conflict, including impacts on “refugees, internally displaced persons, women, children, and other vulnerable groups.”

**UN Human Rights Council Resolutions on arms transfers and firearms**

The Human Rights Council (HRC) addressed for the first time in a clear and direct manner the topic of weapons and human rights in September 2013. Since then, three resolutions have touched on arms transfers and firearms and the consequences on human rights. All these three resolutions contain references to women, although some of these references suffer from the problematic framings described above.

UNHRCR 24/35, “Impact of arms transfers on human rights in armed conflicts,” was adopted shortly after the adoption of the ATT, in September 2013. It urges all states to refrain from transferring arms to those involved in arms conflicts when there is overriding risk of human rights violations. This resolution references the particular impact of arms transfers on women, even though it includes them next to other “vulnerable groups”. It very rightly recalls that
widespread availability of arms may increase the risk of sexual and gender-based violence.

**UNHRC 26/16.** “Human Rights and the regulation of civilian acquisition, possession and use of firearms,” was adopted in June 2014. It acknowledges that domestic regulations on the possession of firearms have an impact on human rights. It mentions the impact of widespread possession of firearms on rates of inter-partner violence.

**UNHRC 29/10** follows from 26/16 to request a report from the UN High Commissioner for Human Rights on the good practices in regulating possession of firearms.

**Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

CEDAW was adopted in 1979 by the UN General Assembly. It defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. CEDAW is a form of international law that, as part of a human rights system and as a treaty, requires state action in a way that UN Security Council resolutions might not, in part because they are more directed towards the UN system rather than national legislation. CEDAW refers to the periods before, during, and after armed conflicts, which recognises that GBV in armed conflict is part of a larger systematic discrimination against women, girls, and others who do not conform to hegemonic masculinities.

CEDAW only has one reference to disarmament, affirming that, among other things, “general and complete disarmament, in particular nuclear disarmament under strict and effective international control … will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women.”

In November 2013, the CEDAW Committee adopted a general recommendation (30) on women in conflict prevention, conflict, and post-conflict situations. In this document, the Committee outlines the concrete measures states parties can take to ensure that women’s human rights are protected before, during and after a conflict. It notes that CEDAW requires states to focus on conflict prevention, which includes “robust and effective regulation of the arms trade, in addition to appropriate control over the circulation of existing and often illicit
conventional arms, including small arms, to prevent their use to commit or facilitate serious acts of gender-based violence."

It goes on to note, "There is a correlation between the increased prevalence of gender-based violence and discrimination and the outbreak of conflict. For example, rapid increases in the prevalence of sexual violence can serve as an early warning of conflict. Accordingly, efforts to eliminate gender-based violations also contribute in the long term to preventing conflict, its escalation and the recurrence of violence in the post-conflict phase." The Committee also notes that "proliferation of conventional arms, especially small arms, including diverted arms from the legal trade, can have a direct or indirect effect on women as victims of conflict-related gender-based violence, as victims of domestic violence and also as protestors or actors in resistance movements." Thus it recommends that states parties "address the gendered impact of international transfers of arms, especially small and illicit arms including through the ratification and implementation of the Arms Trade Treaty (2013)."

Beijing Platform for Action

The Beijing Platform for Action was adopted at the UN Fourth World Conference on Women in Beijing in 1995. Its section on women and armed conflict includes strategic objectives on reducing excessive military expenditures and controlling the availability of armaments.

Specifically, it calls on governments to:
- convert military resources and related industries to development and peaceful purposes;
- explore new ways of generating new public and private financial resources including through the “appropriate reduction of excessive military expenditures, including global military expenditures, trade in arms and investment for arms production and acquisition” in order “to permit the possible allocation of additional funds for social and economic development, in particular for the advancement of women”;
- investigate and punish members of the police, security, and armed forces who perpetrate acts of violence against women, violations of international humanitarian law, and violations of the human rights of women in situations of armed conflict;
- recognise and address the dangers to society of armed conflict and the negative effect of excessive military expenditures, the arms trade, and excessive investment for arms production and acquisition;
- recognise that women and children are particularly affected by the indiscriminate use of anti-personnel landmines and thus undertake a number of actions to prevent their trade and use;
- work actively towards general and complete disarmament under strict and effective international control, support negotiations of a nuclear test ban treaty, and exercise restraint in nuclear testing.
Convention on Cluster Munitions (CCM)

The CCM was adopted in 2008 in response to the humanitarian harm caused by cluster munitions. It expresses concern that cluster munitions kill or maim civilians, including “women and children”. It references UNSC resolution 1325. It requires states parties to adequately provide gender-sensitive assistance, including medical care, rehabilitation, and psychological support, to cluster munition victims in areas under their jurisdiction or control.

Geneva Declaration on Armed Violence and Development

The Geneva Declaration was adopted in 2006 in order to “promote sustainable security and a culture of peace by taking action to reduce armed violence and its negative impact on socio-economic and human development.”

Among other things, it commits signatory governments to “stem the proliferation, illegal trafficking and misuse of small arms and light weapons and ammunition, and lead to effective weapons reduction, post-conflict disarmament, demobilization and reintegration, and small arms control, including control of arms transfers and of illicit brokering.” It commits them to “take further action to deal effectively both with the supply of, and the demand for, small arms and light weapons,” including by implementing the UNPoA “and promoting the development of further international instruments, including legally binding ones.”

The Declaration also requires its signatories to “promote a comprehensive approach to armed violence reduction issues, recognizing the different situations, needs and resources of men and women, boys and girls, as reflected in the provisions of UN Security Council Resolutions 1325 and 1612.”

Safe Schools Declaration

The Safe Schools Declaration was developed through state consultations led by Norway and Argentina in Geneva throughout the first half of 2015. It is aimed at preventing states from using schools or universities for any purpose in military operations. The Declaration notes that attacks on schools and universities have been used to further gender discrimination by preventing the education of girls.
Synergies and contradictions

In some regards, these texts fall into the same trap as the ATT and UNPoA in their categorisation of women as vulnerable victims alongside children, the elderly, and / or the disabled. None of these texts goes as far as to incorporate a comprehensive gender perspective into their conceptions of power in relation to weapons use, trade, and proliferation. Overall, however, they mostly do better than the ATT and UNPoA on their own in terms of promoting women’s participation in peace and security initiatives and in recognising the different roles that women and girls can inhabit. However, there are some contradictions between some of the ways that these instruments, particularly the UNSC resolutions on WPS, have been implemented and the overall goal of preventing armed conflict and armed violence that these instruments ostensibly seek.

Synergies

The most synergy between some of these texts exists at the intersection of armed conflict and gender discrimination or gender-based violence. CEDAW, the Safe Schools Declaration, and all of the UN Security Council, Human Rights Council, and General Assembly resolutions recognise the disproportionate harm to women and girls from gender-based violence and connect this in some way to weapons use, trade, or proliferation. The Convention on Cluster Munitions and the UN Security Council resolutions on women, peace and security (WPS) require certain actions to mitigate this harm, whether through victim assistance or mechanisms to prevent gender-based violence (GBV), particularly sexual violence, in armed conflict. This fits well with the ATT’s legally-binding provision aimed at preventing arms transfers that risk facilitating acts of GBV.

Participation is probably the most synergist element of the existing texts considered here. Following the developments in the UN Security Council resolutions on WPS, for example, UNSCR 2117 on SALW is not limited to the participation of women in discussions and negotiations or policy development. It recognises that women and girls may also be fighters that need access to DDR programmes and that their unique experiences as soldiers may require specific attention. It also recognises, in this context, the importance of consulting with civil society, including women’s organisations.

Some of these texts also demonstrate that there are ways to acknowledge the unique and grave impacts of the use or trade of weapons on women and girls, as distinct to men and boys or others, without categorising them as innocent, vulnerable, or victims. UNSCR 2220 (2015) on SALW calls for consideration of the specific impacts of conflict and also post-conflict environments on women’s security, mobility, economic activity, and opportunities, with the aim of mitigating the risk of women becoming active players in the illicit transfer of SALW. To this end, it encourages states and others to collect sex- and age-disaggregated data to better understand the impact of SALW on
women (and children) and to help with developing national risk assessment criteria for arms transfers. The newest WPS resolution, 2242 (2015), calls for actions to mitigate the risk of women becoming active players in the illicit transfer of SALW.

Even though UNHCR 29/10 has been criticised for not explicitly mentioning the ATT, the synergy between these documents is inevitable. The report requested in the resolution regarding good practices on regulations of the possession of firearms and human rights is another example of synergies that can be exploited between ATT and the Human Rights Council. The conclusions of this report should feed into the standards of assessment to allow export of firearms. To assess if there is an overriding risk of weapons being used to facilitate acts of GBV, comparing domestic regulations of possession of firearms to the best practices mentioned in the report can be an effective tool that integrates a human rights approach.

Probably the most impressive product of the synergies between the WPS resolutions, ATT, and SALW instruments is CEDAW general recommendation 30. It recognises not just that women are victims of GBV or sexual violence but that such violence can be an early warning indicator of conflict. On this basis, it suggests that efforts to eliminate GBV can also contribute to preventing conflict. It explicitly pulls in the relationship between GBV and weapons, noting that proliferation of conventional weapons affects women in conflict, in domestic situations, and as protesters or actors in resistance movements. It thus simultaneously highlights the potential targeting of women as well as their agency in a variety of roles.

The general recommendation could and should have gone further to promote women’s participation in designing solutions to the challenges it identifies. However, it is a concrete example of a tool that has drawn together concerns about gender-based violence and power structures in the use, trade, and proliferation of arms.

**Contradictions**

Yet there are also risks when it comes to promoting women’s participation in this sphere. The way that the UNSC resolutions on WPS have been interpreted, for example, risks promoting women’s participation foremost within the highly masculine militarised security structures that tend to generate rather than prevent or end armed conflict. In the course of engaging governments and militaries to promote the implementation of 1325, the inherent contradictions of the text became clear to those who saw the resolution as a vehicle to have women, especially women in civil society, recognised as actors capable of, and necessary agents in, ending of war and achievement of peace and redefining security. The militaries instead ultimately used it as a vehicle to promote and enhance women’s contributions to war.
One of the key practical effects of the efforts in support of gender mainstreaming has been to promote the inclusion and advancement of female soldiers, with the aim of increasing the proportion of women in militaries and of fielding all-women military units (at times focused on specific tasks thought appropriately performed by women) or providing gender-sensitive trainings where a “gender perspective” is deemed necessary. While the latter is welcome, the idea of incorporating women into the fighting forces as an effective implementation of 1325 is anathema to many of the feminist antimilitarists that promoted the resolution during its negotiation. While working for gender equality, this perspective also requires a critique of the power relations that sustain war and militarism.18

The keystone of the WPS agenda, UNSCR 1325 fails to lend itself to prevention of war or to challenging the legitimacy of systems that generate war. It is underpinned by the idea of “making war safer for women”, as if this was possible. Because it aims to protect women in war and insists they have an equal right to participate in the processes and negotiations that end particular wars, 1325 leaves war itself in place.19
Recommendations

The negative impacts on our society of patriarchy and male privilege are perhaps nowhere more pervasive and pernicious than in the field of weapons, war, and militarism. By consequence, much of the discussion on disarmament perpetuates the highly problematic gender constructions of men who are violent and powerful and women that are vulnerable and need to be protected. Gender perspectives in disarmament, peace, and security must be about exposing and challenging this state of affairs, not about including more women in the existing systems of structural inequalities and violent masculinities.

Developing a holistic approach to the small arms, arms trade, and women, peace and security agendas is critical to ensure that these agendas contribute to the reduction and prevention of armed conflict and armed violence. This should be the objective of any instrument dealing with weapons, war, or violence. What is needed is an approach that prevents gender-based violence without categorising women simply as vulnerable victims; that promotes a positive role for women in ending conflict rather than participating in it; and that includes a critique of the gendered dimensions of militarism and armed violence, including by analysing and taking action on militarised violent masculinity norms.

We must also work to ensure that the instruments and commitments developed have an impact in the real world. Having good language on paper is only the first step in achieving change. Thus, implementation of the ATT, UNPoA, UNSC and UNGA resolutions, and other relevant instruments must utilise the synergies created by:

- recognising and addressing the unique or differential impacts on women of weapons use, trade, and proliferation without merely treating them as victims;
- promoting gender diversity in preventing and ending conflict, including through the promotion of women’s full and effective participation; and
- incorporating gender perspectives in challenging the structures and institutions of armed conflict, armed violence, the arms trade, arms production, and militarism.

To do so, and to gain the most from the potential synergies between the instruments considered here, states, international, regional, and national organisations, and civil society groups should consider the following recommendations:

1. Gender-based violence must be interpreted as violence based on socially constructed norms, perceptions, and power relations of gender. This can indeed include violence against women. But it also includes attacks based on other forms of gender and sexuality norms and discrimination.

2. Women must not be categorised as vulnerable or innocent victims and harm specifically to women must not be framed as a problem in itself. Instruments and initiatives should recognise the differential impacts of
weapons use, trade, and proliferation on women and others without rendering them helpless victims that lack agency and without implying that harm to women makes the mechanism of harm more egregious.

3. States, international organisations, and civil society groups must **strengthen the collection and analysis of sex- and age-disaggregated data on the impact of weapons**, including through the implementation of systematic casualty recording. The motivation in documenting and highlighting differential impacts on women should be to ensure that they receive equal and adequate protection, care, rehabilitation, and participation as men in preventing and recovering from armed conflict and armed violence.

4. **Gender diversity in disarmament, non-proliferation, and arms control must promote the participation of women but also of those not conforming to dominant gender or sexuality norms.** Armed violence also has differential impacts on LGBTQI people, which should be reflected in discussions about weapons, conflict, and violence. It should ensure a range of perspectives can be presented in discussions and negotiations, including critiques of dominant structural inequalities and normative framings. “Effective” participation of women and others creates space for alternative conceptions of security and focus on preventing armed conflict and armed violence rather than on responding to it with military force.

5. Initiatives promoting gender diversity in any of the above should include an explicit critique of militarism and war, including of the patriarchal structures that sustain them. As Carol Cohn put it, to truly challenge war, we must address “the pernicious, pervasive complexities of the gender regimes that undergird not only individual wars but the entire war system.” And as Cynthia Cockburn argues, we should also recognise gender power relations “as a predisposing, and thus causal, factor in militarization and war.” Without a critique of hegemonic violent masculinities, we are held hostage by militarist states and military institutions, as has been seen in the implementation of UNSCR 1325. Therefore, relevant initiatives should include constructive criticism of these frameworks with a view to advancing the overall objective of peace.

6. All treaties, resolutions, commitments, and declarations on the production, possession, transfer, proliferation, or use of weapons must have a gender perspective. They need to take into account differential gendered impacts; gender diversity in the negotiation or elaboration of relevant instruments; and an analysis of the gendered dimensions of the challenges being confronted.

7. Similarly, instruments dealing with women, peace and security or women’s human rights must incorporate issues related to weapons, war, and violence. They should promote disarmament and arms control as integral to enhancing women’s human rights, preventing GBV, and preventing and ending armed conflict and armed violence.
This piece considers both armed conflict and armed violence to be crucial to this discussion, noting that the majority of armed violence deaths tend to occur in countries “at peace”—which “questions the conceptual dichotomy widespread in the international community separating ‘war’ and ‘peace’.” See Daniel Mack, “War in peace: the big toll of small arms,” OpenDemocracy, 21 October 2014, https://www.opendemocracy.net/opensecurity/daniel-mack/war-in-peace-big-toll-of-small-arms.


6. See F. Krill, The Protection of Women in International Humanitarian Law (1985), International Review of the Red Cross, No. 249, Available at: http://www.icrc.org/eng/resources/documents/misc/57jmfj.htm noting Article 12, C.I and C.II, Article 14, C.III; also Art. 27; C. IV; Art. 75 and 76, P.I. describing rape and enforced prostitution as attacks on women’s honour, rather than on their physical integrity or freedom or agency, is extremely problematic. The perception of women’s sexuality as a symbol of honour belongs to patriarchal cultures and is the very reason why rape and enforced prostitution are so common during armed conflict; See also Women and explosive weapons, Reaching Critical Will of the Women’s International League for Peace and Freedom, February 2014, and H. Durham & K. O’Byrne, The dialogue of difference: gender perspective on international humanitarian law (2010), International Review of the Red Cross, Volume 92 Number 877 March 2010.
combatants, sex is used “as a shortcut to distinction” between civilians and combatants—see R. Charli Carpenter, “Recognizing Gender-Based Violence Against Civilian Men and Boys in Conflict Situations,” Security Dialogue vol. 37, no. 1, March 2006, pp. 89–90.

12. Ibid., p. 296


15. Carol Cohn et al, op. cit.


20. Ibid., p. 6.

21. Carol Cohn, op. cit.

22. Ibid.

SDG 11: Make cities and human settlements inclusive, safe, resilient and sustainable

Targets

- By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons.
- By 2030, provide universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities.

See all targets ▼

By 2030, a historic 60 per cent of people worldwide will likely live in cities. For women and girls, urban residency can open doors to more income, better work and increased independence. Yet many, particularly lower-income women, are far from experiencing their equal rights to all the benefits and opportunities that urban areas can offer.

Urban spaces are not always safe for them, constraining their right to move about freely. They may face discrimination in employment or property ownership, and in services. A
woman who cannot access the public transport she needs to reach medical care, for example, may face consequences including death or disability in giving birth.

Women who are poor and living in urban slums face particular challenges. In developing countries, more than half of urban women and girls lack at least one of the following: access to clean water, improved sanitation, durable housing and/or sufficient living area. Housing deficits impose extra burdens on women, who spend more time at home. Overcrowding and poor hygiene can make households vulnerable to illness, with women required to care for the sick.

UN Women acts to make urban public spaces safe and empowering for all women and girls. We support safety in urban development plans, gender-responsive local programmes, and investments in safe and economically viable public spaces. The Global Flagship Initiative “Safe Cities and Safe Public Spaces” generates innovative results through partnerships with local and national governments, women’s groups and other community actors.

Stories

From where I stand: “It would be a better world if women felt safe in public spaces”

Salma Belhassine, a 21-year-old activist from Tunisia is part of the Youth Leadership Pro-gramme, a joint initiative by UNDP and UN Women. Belhassine and four other university students are working to develop SafeNes, a mobile app to protect women from sexual harassment in public spaces.

In Viet Nam, women are leading disaster prevention and response

Women in Viet Nam are leading their communities in preparing for disasters to reduce negative impacts. When the Kien Giang river flooded, the damage to lives and livelihoods of the people of My Thuy commune was minimal, because of the preparations and adaptations made by “communicators”—local women leaders trained by a UN Women programme.

Making public transport safe for women and girls in Papua New Guinea

For women, getting on a bus in Port Moresby, Papua New Guinea, meant an almost guaranteed experience of violence. UN Women’s Safe Public Transport for Women and Children programme has provided a bus exclusively for women and children, with tracking systems and three uniformed bus crews. Being able to travel safely has also meant increased access to economic opportunities for women.
Goal 5: Achieve gender equality and empower all women and girls

While the world has achieved progress towards gender equality and women's empowerment under the Millennium Development Goals (including equal access to primary education between girls and boys), women and girls continue to suffer discrimination and violence in every part of the world.

Gender equality is not only a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world.

Unfortunately, at the current time, 1 in 5 women and girls between the ages of 15-49 have reported experiencing physical or sexual violence by an intimate partner within a 12-month period and 49 countries currently have no laws protecting women from domestic violence. Progress is occurring regarding harmful practices such as child marriage and FGM (Female Genital Mutilation), which has declined by 30% in the past decade, but there is still much work to be done to complete eliminate such practices.

Providing women and girls with equal access to education, health care, decent work, and representation in political and economic decision-making processes will fuel sustainable economies and benefit societies and humanity at large. Implementing new legal frameworks regarding female equality in the workplace and the eradication of harmful practices targeted
at women is crucial to ending the gender-based discrimination prevalent in many countries around the world.

Facts and figures

- Globally, 750 million women and girls were married before the age of 18 and at least 200 million women and girls in 30 countries have undergone FGM.

- The rates of girls between 15-19 who are subjected to FGM (female genital mutilation) in the 30 countries where the practice is concentrated have dropped from 1 in 2 girls in 2000 to 1 in 3 girls by 2017.

- In 18 countries, husbands can legally prevent their wives from working; in 39 countries, daughters and sons do not have equal inheritance rights; and 49 countries lack laws protecting women from domestic violence.

- One in five women and girls, including 19 per cent of women and girls aged 15 to 49, have experienced physical and/or sexual violence by an intimate partner with the last 12 months. Yet, 49 countries have no laws that specifically protect women from such violence.

- While women have made important inroads into political office across the world, their representation in national parliaments at 23.7 per cent is still far from parity.

- In 46 countries, women now hold more than 30 per cent of seats in national parliament in at least one chamber.

• Only 52 per cent of women married or in a union freely make their own decisions about sexual relations, contraceptive use and health care.

• Globally, women are just 13 per cent of agricultural land holders.

• Women in Northern Africa hold less than one in five paid jobs in the non-agricultural sector. The proportion of women in paid employment outside the agriculture sector has increased from 35 per cent in 1990 to 41 per cent in 2015.

• More than 100 countries have taken action to track budget allocations for gender equality.

• In Southern Asia, a girl’s risk of marrying in childhood has dropped by over 40% since 2000.
Goal 11: Make cities inclusive, safe, resilient and sustainable

Cities are hubs for ideas, commerce, culture, science, productivity, social development and much more. At their best, cities have enabled people to advance socially and economically. With the number of people living within cities projected to rise to 5 billion people by 2030, it’s important that efficient urban planning and management practices are in place to deal with the challenges brought by urbanization.

Many challenges exist to maintaining cities in a way that continues to create jobs and prosperity without straining land and resources. Common urban challenges include congestion, lack of funds to provide basic services, a shortage of adequate housing, declining infrastructure and rising air pollution within cities.

Rapid urbanization challenges, such as the safe removal and management of solid waste within cities, can be overcome in ways that allow them to continue to thrive and grow, while improving resource use and reducing pollution and poverty. One such example is an increase in municipal waste collection. There needs to be a future in which cities provide opportunities for all, with access to basic services, energy, housing, transportation and more.
Facts and figures

- Half of humanity – 3.5 billion people – lives in cities today and 5 billion people are projected to live in cities by 2030.
- 95 per cent of urban expansion in the next decades will take place in developing world.
- 883 million people live in slums today and most them are found in Eastern and South-Eastern Asia.
- The world’s cities occupy just 3 per cent of the Earth's land, but account for 60-80 per cent of energy consumption and 75 per cent of carbon emissions.
- Rapid urbanization is exerting pressure on fresh water supplies, sewage, the living environment, and public health.
- As of 2016, 90% of urban dwellers have been breathing unsafe air, resulting in 4.2 million deaths due to ambient air pollution. More than half of the global urban population were exposed to air pollution levels at least 2.5 times higher than the safety standard.
WHY IT MATTERS:
SUSTAINABLE CITIES –
PDF

LEARN MORE ABOUT
GOAL 11

The United Nations
Conference on Housing
and Sustainable
Urban Development,
took place in Quito,
Ecuador from 17-20
October 2016, and was the
first UN
global summit on urbanization since the adoption of the 2030
Agenda for Sustainable Development.

Habitat III offered a unique opportunity to discuss the important
challenges of how cities, towns, and village can be planned and
managed, in order to fulfill their role as drivers of sustainable
development, and how they can shape the implementation of the
Sustainable Development Goals and the Paris Agreement on
climate change.

In Quito, world leaders adopted the New Urban Agenda which set
global standards of achievement in sustainable urban
development, rethinking the way we build, manage, and live in
cities through drawing together cooperation with committed
partners, relevant stakeholders, and urban actors at all levels of
government as well as the civil society and private sector.
Resolution 1325 (2000)

Adopted by the Security Council at its 4213th meeting, on 31 October 2000

The Security Council,


Recalling also the commitments of the Beijing Declaration and Platform for Action (A/52/231) as well as those contained in the outcome document of the twenty-third Special Session of the United Nations General Assembly entitled “Women 2000: Gender Equality, Development and Peace for the Twenty-First Century” (A/S-23/10/Rev.1), in particular those concerning women and armed conflict,

Bearing in mind the purposes and principles of the Charter of the United Nations and the primary responsibility of the Security Council under the Charter for the maintenance of international peace and security,

Expressing 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 recognizing the consequent impact this has on durable peace and reconciliation,

Reaffirming the important role of women in the prevention and resolution of conflicts and in peace-building, and stressing the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution,

Reaffirming also the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts,
Emphasizing the need for all parties to ensure that mine clearance and mine awareness programmes take into account the special needs of women and girls,

Recognizing the urgent need to mainstream a gender perspective into peacekeeping operations, and in this regard noting the Windhoek Declaration and the Namibia Plan of Action on Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations (S/2000/693),

Recognizing also the importance of the recommendation contained in the statement of its President to the press of 8 March 2000 for specialized training for all peacekeeping personnel on the protection, special needs and human rights of women and children in conflict situations,

Recognizing 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,

Noting the need to consolidate data on the impact of armed conflict on women and girls,

1. Urges Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict;

2. Encourages the Secretary-General to implement his strategic plan of action (A/49/587) calling for an increase in the participation of women at decision-making levels in conflict resolution and peace processes;

3. Urges the Secretary-General to appoint more women as special representatives and envoys to pursue good offices on his behalf, and in this regard calls on Member States to provide candidates to the Secretary-General, for inclusion in a regularly updated centralized roster;

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

5. Expresses its willingness to incorporate a gender perspective into peacekeeping operations, and urges the Secretary-General to ensure that, where appropriate, field operations include a gender component;

6. Requests the Secretary-General to provide to Member States training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in all peacekeeping and peacebuilding measures, invites Member States to incorporate these elements as well as HIV/AIDS awareness training into their national training programmes for military and civilian police personnel in preparation for deployment, and further requests the Secretary-General to ensure that civilian personnel of peacekeeping operations receive similar training;

7. Urges Member States to increase their voluntary financial, technical and logistical support for gender-sensitive training efforts, including those undertaken by relevant funds and programmes, inter alia, the United Nations Fund for Women and United Nations Children’s Fund, and by the Office of the United Nations High Commissioner for Refugees and other relevant bodies;
8. **Calls on** all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia:

   (a) The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction;

   (b) Measures that support local women’s peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements;

   (c) Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary;


10. **Calls on** all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict;

11. **Emphasizes** the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard **stresses** the need to exclude these crimes, where feasible from amnesty provisions;

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

13. **Encourages** all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependants;

14. **Reaffirms** its readiness, whenever measures are adopted under Article 41 of the Charter of the United Nations, to give consideration to their potential impact on the civilian population, bearing in mind the special needs of women and girls, in order to consider appropriate humanitarian exemptions;

15. **Expresses** its willingness to ensure that Security Council missions take into account gender considerations and the rights of women, including through consultation with local and international women’s groups;

16. **Invites** the Secretary-General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution, and further invites him to
submit a report to the Security Council on the results of this study and to make this available to all Member States of the United Nations;

17. Requests the Secretary-General, where appropriate, to include in his reporting to the Security Council progress on gender mainstreaming throughout peacekeeping missions and all other aspects relating to women and girls;

18. Decides to remain actively seized of the matter.
SECURITY COUNCIL RESOLUTION 1325

Introduction:
The first resolution on Women, Peace and Security, Security Council Resolution 1325 (SCR1325), was unanimously adopted by United Nations Security Council on 31 October 2000. SCR1325 marked the first time the Security Council addressed the disproportionate and unique impact of armed conflict on women;
recognized the under-valued and under-utilized contributions women make to conflict prevention, peacekeeping, conflict resolution, and peace-building. It also stressed the importance of women’s equal and full participation as active agents in peace and security.

**Key Provisions of SCR 1325:** (/why-WPS)

- Increased participation and representation of women at all levels of decision-making.
- Attention to specific protection needs of women and girls in conflict.
- Gender perspective in post-conflict processes.
- Gender perspective in UN programming, reporting, and in SC missions.
- Gender perspective & training in UN peace support operations.

Key Actors responsible for implementation of SCR 1325 include the Security Council; Member States; UN entities; the Secretary-General; and parties to the conflict.

The Women, Peace and Security agenda is anchored in the principle that effective incorporation of gender perspectives and women’s rights can have a meaningful and positive impact on the lives of women, men, girls, and boys on the ground. Its interlinked and mutually reinforcing aspects (sometimes referred to as Pillars or the “3 Ps”) -- protection, prevention and participation -- are critical in respecting human rights and dignity and in tackling the root causes of conflict to create sustainable peace.
Report of the Secretary-General on women and peace and security*

I. Introduction

1. The present report is submitted pursuant to the presidential statement dated 26 October 2010 (S/PRST/2010/22), in which the Security Council requested annual reports on the implementation of resolution 1325 (2000) and resolution 2122 (2013), and called for updates on progress, challenges and gaps across all areas of the women and peace and security agenda. While highlighting notable achievements and trends over the past year, the report provides an account of the continued weak delivery on key commitments and draws attention to areas of stagnation or regression. The report shows that significant challenges persist with regard to the meaningful participation of women in conflict resolution. We continue to witness devastating failures to respect international human rights and humanitarian law across conflicts, particularly with regard to grave violations of women’s human rights. In many settings, justice, recourse and reparation remain out of reach. Women and girls also remain unable to access essential services and livelihood opportunities, placing them at increased risk and threatening the short- and long-term resilience of communities. These developments, and the increasing threats against women’s human rights defenders, fundamentally undermine global efforts to prevent conflict and sustain peace.

2. In 2020, the United Nations, Member States, regional organizations and civil society will mark the twentieth anniversary of the adoption of resolution 1325 (2000). The lead-up to this milestone, and the anniversary itself, provide important opportunities to highlight and appraise progress and revise strategies to deliver results ahead of and beyond 2020. Based upon my commitment last year (see S/2017/861) and in preparation for 2020, the present report features a special focus on the meaningful participation and representation of women in peace processes and the implementation of peace agreements. Details are provided on trends, good practices and challenges in this area, and recommendations offered to address the continued underrepresentation of women in efforts aimed at resolving conflict. The report then provides updates and progress across indicators for women, peace and security; recommendations of the three 2015 peace and security reviews, including the global study on the implementation of Security Council resolution 1325 (2000);¹ and the implementation of resolution 2242 (2015).

* The present report was submitted after final verification with the relevant entities.

3. The report is based on data and analysis provided by entities of the United Nations system, including peace operations and country teams; inputs from Member States, regional organizations and civil society; and analysis of other globally recognized data sources.

II. Follow-up to the three peace and security reviews

4. Over the past year, the international community continued to face a world where violence, inequality and injustice prevent peace. More countries were experiencing some form of violent conflict than at any time in the previous 30 years. For the fifth year in a row, wars, violence and persecution drove forced displacement worldwide to a new high: 68.5 million people displaced at the end of 2017.

5. Even in those places where impressive strides towards peace have included correspondingly impressive efforts and investments in gender equality, new and gender-specific spikes in violence have occurred, facilitated by the erosion of governance, security and social support systems, and by the diversion both of finances and of political and media attention. In Colombia, for example, where the 2016 peace agreement and its follow-up provide inspiration through strong language on gender equality and the engagement of women’s civil society organizations, threats against and killings of human rights defenders have since increased, as have the number of new armed groups and incidents of femicide. At the same time, frozen and protracted crises and conflicts continue to require our sustained focus and commitment. In the Democratic Republic of the Congo, for example, where ongoing and complex humanitarian and peace and security crises continue, aid from the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD) to promote gender equality was only $8 per capita.

6. I remain concerned about lack of progress across the most fundamental commitments to peace and security, human rights and gender equality. Sustainable approaches to the challenges highlighted throughout the present report will require our creativity and long-term commitment to move beyond one-off project-based approaches to women, peace and security to achieve system-level and structural changes. As a preface to the report, I highlight four key areas, which I have prioritized and will continue to prioritize.

A. Women, peace and security for prevention and peace

7. My prioritization of prevention includes placing gender equality and the meaningful participation of women at the centre of all efforts to prevent conflict and sustain peace. Research continues to demonstrate a direct relationship between gender equality and resilience to and prevention of conflict (see S/2017/861, para. 1). Not only can violence against women serve as an early warning sign for violence, but it...
para. 7). In July 2018, the Deputy Secretary-General and the Special Envoy of the Chairperson of the African Union Commission on Women, Peace and Security undertook a mission to Chad, South Sudan and the Niger. At various points during the visit, they were joined by other United Nations leaders and the President of the Security Council in July (Sweden). Through such broad representation and expertise, the mission addressed issues related to the leadership of women, sexual and gender-based violence, preventing radicalization, violent extremism and terrorism, and peace and climate security. As in 2017, the Security Council was provided with a briefing on the outcome of the mission.\textsuperscript{96}

105. In 2017, 84 per cent of my reports to the Security Council contained references to women and peace and security, including 16 of 20 reports on country and regional situations, all 25 periodic reports on special political missions and 36 of 41 periodic reports on peacekeeping operations.\textsuperscript{97} I expect my Special Representatives to ensure that gender-responsive conflict and peace analysis is included in all reporting to the Security Council and I encourage members of the Security Council to address specific questions on women and peace and security to field leadership during consultations.

106. The full potential of mainstreaming women and peace and security considerations within sanctions regimes has yet to be realized. The number of sanctions regimes containing conflict-related sexual violence and/or gender-based violence as part of their designation criteria increased to seven in 2017. Notably, the newly established sanctions regime for Mali included an explicit reference to sexual and gender-based violence, and the sanctions regime for the Central African Republic was amended to provide for sexual violence as a separate designation criterion. The Security Council also expressed its readiness to sanction individuals and entities who are supporting ISIL, Al-Qaeda and associated individuals, groups, undertakings and entities, and commit trafficking in persons, the sale of women and girls, or forced marriage (see Security Council resolution 2388 (2017)). In 2017, the Security Council Affairs Division, in cooperation with the Gender, Peace and Security Unit of the Department of Political Affairs, introduced a dedicated women and peace and security training for all expert panels. In the past, even when included in the mandate of the committee and publicly reported on by the panel of experts, very few individuals or entities were sanctioned for sexual violence, trafficking in persons, gender-related persecution, targeted abductions, killings of women and girls, or gross violations of women’s human rights.

VIII. Concluding observations and recommendations

107. As I submit the present yearly report on women and peace and security, I am cognizant that such reports often cannot capture the scope and scale of global human rights violations or the short- and long-term impacts of conflict and crises. They also fail to convey the individual stories, fears and tragedies behind the numbers or to give proper recognition to the leadership, vision and activism demonstrated by many women in the most difficult of situations. Every year commitments to promote the role of women in peace and security are not sufficiently backed with the requisite financial and political support. This year is no different.

108. We face a true test of our commitments in the lead up to 2020. Therefore, in cooperation with Member States, I intend to continue realigning our efforts towards the full implementation of women and peace and security commitments. Progress in

\textsuperscript{96} See S/PV.8306.

\textsuperscript{97} See NGO Working Group on Women, Peace and Security, “Mapping women, peace and security”.
this area is inextricably linked and essential to our global efforts to prevent conflict, sustain peace and fulfil our goal to leave no one behind.

109. Practical and institutional barriers continue to prevent women from participating fully and substantively in all peace processes. In that regard, I call upon Member States and regional organizations to address those barriers by adopting concrete measures that are responsive to the needs of women participants. I ask Member States that make positive commitments to this agenda in the Security Council to link those commitments to positive actions in the peace processes that they support.

110. Efforts of Member States could further advance the women and peace and security agenda by championing it in all forums and supporting a stronger United Nations gender architecture thorough assessed budgets for posts dedicated to building gender advisory capacity.

111. I welcome the contributions by the Security Council Informal Expert Group on Women and Peace and Security and encourage the Council to bring forward the information gathered by the Informal Expert Group into its deliberations and outcomes, demonstrating the true impact of high-quality gender conflict analysis.

112. To document our collective achievements and identify gaps in the implementation of their commitments on women and peace and security, I encourage Member States to initiate national and regional review processes in the lead up to the 20-year anniversary, in 2020, of Security Council resolution 1325 (2000).

113. In the context of United Nations peace operations, I will continue to work with my senior managers to improve gender parity. My temporarily established working group on emergency measures for the implementation of gender parity in peace operations has already taken forward bold measures to ensure real change and will play a catalytic role in the efforts of the Organization to achieve gender parity and geographical diversity in peace operations.

114. My Envoys and Special Representatives, with support from my High-level Advisory Board on Mediation as appropriate, will identify ways to advance the effective participation of women in United Nations-supported peace processes. They will strive to integrate gender equality and gender parity in all aspects of their work and ensure the inclusion of dedicated gender expertise in their teams.

115. All entities in the United Nations system with reporting requirements on women and peace and security will be expected to develop gender-sensitive conflict analysis guidelines and mechanisms by 2020. In the same vein, I will continue to ensure that a gender-sensitive perspective informs my statements, reports and briefings, including those to the Security Council.

116. I call upon all relevant United Nations operational entities to track targeted and mainstreamed budgetary allocations and expenditures related to women and peace and security. Those data will serve to indicate progress achieved towards reaching or exceeding the minimum 15 per cent target for programmes that further gender equality and the empowerment of women in peacebuilding contexts ahead of 2020 and will inform my annual reports on women and peace and security.

117. I reiterate my intention to review and update the seven-point action plan on gender-responsive peacebuilding that was set out in 2010, for agreement by the United Nations system in 2020. It will be led by UN-Women and the Department of Political and Peacebuilding Affairs, in close coordination with members of the Standing Committee on Women, Peace and Security. I encourage UN-Women to begin a consultative process on improving collection of data and measurements to monitor trends and progress globally. Those efforts should consider new data initiatives
specific to women and peace and security and efforts to populate and disaggregate data across the Sustainable Development Goal indicators.

118. In conclusion, I intend to include in my next report on women and peace and security an assessment of implementation of the recommendations related to women and peace and security relevant to the United Nations system drawn from the three peace and security reviews undertaken in 2015. The findings and recommendations from the exercise will provide the basis for more concrete action in the 12 months leading up to the twentieth anniversary of Security Council resolution 1325 (2000).
We must also work together to make sure that developments in science and technology are used for the good of humankind. Our joint efforts to prevent the weaponization of new technologies will save future generations. We owe this to our children and grandchildren.

My agenda for disarmament aims to be comprehensive, but not exhaustive. It proposes solutions, and it raises questions. It is not intended to replace the responsibilities of Member States, nor is it meant to impose any specific measures on them. My hope is that this agenda will reinvigorate dialogue and negotiations on international disarmament, stimulate new ideas and create new momentum.

My agenda also integrates disarmament into the priorities of the whole United Nations system, laying the foundations for new partnerships and greater collaboration between different parts of our organization and Governments, civil society, the private sector and others. It focuses on practical measures and indicates where I intend personally to engage and support Member States in carrying out their responsibilities.

Many Member States, independent experts and members of civil society have contributed to developing this agenda. I thank them sincerely for their engagement and support.

There are moments in history when individual and collective courage and conscience come together to change the course of events. I hope this disarmament agenda will help set our world on a path towards sustainable peace and security for all.

António Guterres
United Nations Secretary-General
24 May 2018
technologies. It seeks to generate fresh perspectives and to explore areas where serious dialogue is required to bring disarmament back to the heart of our common efforts for peace and security.

DISARMAMENT TO SAVE HUMANITY

The existence of nuclear weapons poses a continuing threat to the world. Their total elimination can only be attained through reinvigorated dialogue and serious negotiations and a return to a common vision leading towards nuclear disarmament. The States that possess nuclear weapons must take steps to reduce all types of nuclear weapons, ensure their non-use, reduce their role in security doctrines, reduce their operational readiness, constrain the development of advanced new types, increase transparency of their programmes and build mutual trust and confidence. All States must work together to achieve concrete and irreversible steps to prepare for a world free of nuclear weapons, including by making the nuclear test ban permanent, developing approaches for nuclear disarmament verification and ending the production of fissile material for use in weapons.

With respect to other weapons of mass destruction, the Security Council must exercise its primary responsibility and act to halt further erosion of the norm against chemical weapons by ending impunity and ensuring accountability for any use. We must continue to strengthen our institutions to prevent any use of biological weapons, including by strengthening the implementation of the Biological Weapons Convention, and to ensure that we can mount an adequate response in case prevention fails. Preventing the emergence of new and destabilizing strategic weapons, including in outer space, also remains vital for the preservation of international stability.

DISARMAMENT THAT SAVES LIVES

As armed conflicts grow more deadly, destructive and complex, we need a new focus on disarmament that saves lives. This includes new efforts to rein in the use of explosive weapons in populated areas, through common standards, the collection of data on collateral harm and the sharing of policy and practice. The United Nations will need to coordinate better in helping Governments deal with the scourge of improvised explosive devices. We must also remain on guard to prevent new technologies, such as armed drones, from tempting any reinterpretation of international law.

International approaches to regulate arms need to be brought in line with the magnitude of these problems and integrated into broader work for prevention and sustainable development. This should start with a new approach for supporting action at the country-level to end the illicit trade in small arms and their ammunition. It must also include a deeper institutional understanding on the impact of the over-accumulation of arms in fuelling and prolonging conflict. We must continue to ensure the security and physical protection of
ENSURING THE EQUAL, FULL AND EFFECTIVE PARTICIPATION OF WOMEN

The equal, full and effective participation of women in all decision-making processes related to disarmament is essential for the promotion and attainment of sustainable peace and security. The Secretary-General has prioritized gender parity as “a moral duty and an operational necessity”. He further recognized that “the meaningful inclusion of women in decision-making increases effectiveness and productivity, brings new perspectives and solutions to the table, unlocks greater resources, and strengthens efforts across all the three pillars of our work”.

Security Council resolution 1325 (2000), on women, peace and security, and subsequent research on its implementation reinforce the critical role of women in preventing conflict and brokering and sustaining peace. In the field of disarmament, women have been particularly powerful agents for peace and progress. The oldest non-governmental organizational active in United Nations disarmament forums—the Women’s International League for Peace and Freedom—was formed in 1915 as a response to the horrors of the First World War, predating the United Nations and outliving the League of Nations. Two women have been individually awarded the Nobel Peace Prize for their work in  

Figure 7
Participation of women in multilateral disarmament meetings at the United Nations

- Percentage of meeting delegates who are women
- Percentage of delegations headed by a woman
- Percentage of delegations that are all male
We as civil society groups from all parts of the world, work for peace and security, mutual understanding, and sustainable development at the grass-roots level and therefore in the service of all of humanity;

We acknowledge the diverse roles women and men play in societies, including in peace and in conflict settings;

We highlight that men constitute a great majority of the owners of small arms. The vast majority of perpetrators and victims are young men;

We note that men dominate professions and activities with easy access to arms and domains of decision-making on security at the international, national, and local levels: politics, diplomacy, law enforcement, military, municipal councils, and committees of elders;

We underline that for women, small arms and intimate-partner violence are a fatal combination. Globally, over one third of murders of women are committed by a male intimate partner, often with small arms. In areas of conflict, sexual violence perpetrated by armed intimidation is an unending scourge. Moreover, in both conflict and crime settings women bear a heavy burden – psychological and economic – when male family members are injured or killed.

We acknowledge and respect the experience of interconnectedness by women across communities and borders and the solidarity they often feel even with those across conflict lines.

We urge a thorough inclusion of gender perspectives in small arms control policies, programmes and activities in all settings and at all levels, including addressing the gendered nature of ownership and use of small arms, the differentiated effects of small arms on women and men, and the ways in which gender roles can shape small arms policies and practices.
Considerable advances have been made in the international policy framework regarding the convergence of the small arms control agenda and the women, peace, and security agenda. For example, the current 2012-2018 implementation plan for the Programme of Action (PoA) to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects urges Member States “to facilitate the participation and representation of women in small arms policymaking [...] and to explore means to eliminate the negative impact of the illicit trade in small arms and light weapons on women.”

We call on States, international, regional and subregional organizations, civil society, and all relevant stakeholders to strengthen the linkage of these two agendas in the Review Conference and in future PoA meetings and to operationalize the gender-related outcomes of previous meetings.

Engaging all stakeholders to advance gender perspectives in small arms control
Small arms are the only weapons category owned mostly by civilians. Proper regulation of these weapons requires measures and capacity-building well beyond those involved in government control over other weapons systems: for instance engaging with municipal government, police, grass-roots civil society groups, at-risk youth, and community violence reduction initiatives. Engagement must be inclusive and target all demographics, including women and girls.

Moreover, regulation of a weapon category that is mainly in public circulation will need to be based on comprehensive national data, disaggregated by sex and age.

Addressing gender stereotypes
When the gender dimension is not sufficiently identified through accurate, detailed, and evidence-based information, and consequently not adequately dealt with in legislative and policy frameworks that regulate small arms control, the success of meaningful interventions is diminished, thereby gravely undermining the effectiveness of small arms control.

A gender lens can explain the persistence of socially constructed gender stereotypes, linking small arms ownership, use, and misuse to specific expressions of masculinity related to control, power, domination and strength.

Meaningful representation and participation of women

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1 See, e.g., UN Office for Disarmament Affairs Gender Mainstreaming Action Plan (2016); UN Security Council Resolution 1325 on Women, Peace and Security (2000); UN Arms Trade Treaty (2013); and meeting outcomes under the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001).

2 See, e.g. UN Coordinating Action on Small Arms, International Small Arms Control Standard 06.10: Women, men and the gendered nature of small arms and light weapons (October 2017), 17.
Gender imbalance in decision-making bodies influences the policy discourse on small arms. The recognition and participation of women as key stakeholders and experts in political processes related to small arms control, both at the international and national levels, would lead to the adoption of perspectives and policy outcomes that more accurately reflect the highly-gendered dynamics and effects of small arms. The Women, Peace and Security framework, including its foundational resolution 1325 (2000), remains a vital mechanism for promoting equal and meaningful representation of women at all levels of engagement on peace and security issues.

A call to action

Hence, we call upon States, UN agencies, international, regional and sub-regional organizations and civil society to:

- Further incorporate gender perspectives into the UN small arms process including in national reporting on the PoA and all aspects of the implementation of the instrument;
- Make use of the International Small Arms Control Standards (ISACS) on “Women, men and the gendered nature of small arms and light weapons” to gender-mainstream provisions into activities related to the implementation of the Programme of Action;\footnote{ISACS 06.10 Women, men and the gendered nature of small arms and light weapons: www.smallarmsstandards.org/isacs/0610-en.pdf.};
- Challenge predominant gender stereotypes that associate masculinity with the ownership and use of small arms, which increases the risk of gender-based violence. This effort can be aided by challenging the connections between violence and masculinity and educating around gender norms as well as through peace education that promotes tolerance, forgiveness, gender equality, nonviolent conflict resolution, and alternative expressions of non-violent masculinity;
- Fund and give priority to the meaningful participation of women and girls in discussions and solutions relating to small arms control at local, national, regional, and international levels, and in formal disarmament initiatives as part of peace processes and negotiations;
- Support and fund initiatives to further build and strengthen the capacity and skills of women, to enable their meaningful participation in the UN small arms process. This includes documenting women’s experience in decision-making and political processes in relation to small arms control, and improving women’s awareness of and access to such opportunities pursuant to the provisions in UNSCR 1325;
- Allocate and mobilize funds to enhance the work of civil society organizations, in particular women’s organizations, on small arms, women’s rights, and gender
mainstreaming, including advocacy, education, training, implementation, and monitoring of national laws and policies;

- Support measures aimed at strengthening control over civilian possession of small arms in order to reduce diversion and misuse;
- Ensure the effective implementation of the gender-based-violence provisions of the Arms Trade Treaty (ATT) whereby it is illegal to transfer weapons if there is a risk that the weapons will be used to facilitate gender-based violence (article 7(4)).
- Ensure that women are consulted in processes related to national weapons collection and destruction programmes; disarmament, demobilization, and reintegration programmes, and community violence reduction programmes and that such programmes are gender-mainstreamed by including components such as survivor assistance, psychosocial support, and livelihood programmes for women and men;
- Understand the opportunity in particular during the transition from conflict to peace for unequal gender relations to be transformed, giving women new openings for fuller participation in political, social, and cultural affairs;
- Recognize the role women can play in encouraging men in their families, and mobilizing communities through peace movements, to give up their weapons;
- Take into account that when communities are offered development aid incentives in return for giving up their weapons, women, if asked at all, have shown to request projects less prestigious than men, but with a more direct effect on alleviating their workload and reducing their poverty;
- Recognize that armed groups that have recruited female fighters, sometimes by force, may not give females their own arms or may prevent them from keeping arms after peace accords are signed, resulting in many female ex-combatants and other women associated with fighting forces not being included in disarmament, demobilization, and reintegration programmes;\(^4\)
- Recognize that reintegration programmes for female ex-combatants, in particular those who previously held leadership positions, should take into account their former status and role of command, rather than offer traditional reintegration programmes for women in a domesticated context;
- Promote and produce quality, participatory research and analysis highlighting the gendered effects of armed violence and its links with poverty and other forms of social injustice; and
- Stipulate that more detailed sex- and age-differentiated data on small arms ownership and use should be collected through relevant national bodies, such as statistical offices –

including for use in national reporting on the Programme of Action and for use in strengthening and improving small arms control programmes and initiatives – and that gender-expert involvement is needed in examining this data.

**We call on States to help strengthen our collective efforts to address this urgent problem by consistently applying gendered approaches to small arms control.**

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For more information, contact Jasmin Nario-Galace (jasminnariogalace@gmail.com) or Ema Tagicakibau (etaggy@yahoo.com), Co-Coordinators of the IANSA Women’s Network
Introduction to Article 7 Risk Assessment and its relationship with Articles 6 and 11

Summary:
This session will describe the Article 7 risk assessment process and the Control Arms, ICRC, and IHRC interpretations of the requirements of Article 7. It will also provide a brief overview of Articles 6 and 11 of the ATT. We will discuss sharing national experiences conducting the Article 7 risk assessment.

Guiding Questions:

- How have states been conceiving of their obligations under Article 7?
- How have states been conducting the risk assessment?
- How do the IHRC and ICRC papers propose that states conduct the Article 7 risk assessment, with a particular focus on IHRL and IHL?
- What exactly does the Article 7 risk assessment entail?

Readings:

- International Committee of the Red Cross, International Humanitarian Law and Gender-Based Violence in the Context of the Arms Trade Treaty," April 2019 (entire document)


- Reaching Critical Will, Article 7(4) in the ATT (video)
The Arms Trade Treaty (ATT) requires States Parties to consider whether exported arms could be used to commit or facilitate serious acts of gender-based violence (GBV). The purpose of this working paper is to identify serious acts of GBV that amount to serious violations of international humanitarian law (IHL) so as to assist States in conducting the assessments required by Articles 6 and 7 of the Arms Trade Treaty (ATT).

Understanding gender and other diversity factors helps the International Committee of the Red Cross (ICRC) assess people’s capabilities and needs, and address the humanitarian consequences of widespread availability and misuse of conventional arms. Against this background, the requirement in the ATT to consider the risk of exported arms being used to commit or facilitate serious acts of GBV or serious acts of violence against women and children is a commendable advance, representing the first time that a treaty links arms transfer decisions to the risk of GBV.

RISK ASSESSMENTS, SERIOUS VIOLATIONS OF IHL AND GENDER-BASED VIOLENCE

IHL is a set of rules that apply in times of armed conflict and that are intended to protect people who are not, or are no longer, taking part in the hostilities, such as civilians and wounded, sick and captured combatants. It also aims to limit suffering by imposing restrictions on the choice of means and methods of warfare.

Violations of IHL are serious – and constitute war crimes – if they endanger protected persons (such as civilians or wounded or captured combatants) or objects (such as civilian homes or infrastructure), or if they breach important values.\(^1\)

Article 6(3) of the ATT prohibits a State Party from authorizing any transfer of arms, ammunition, parts or components if, among other things, it knows that the items in question would be used to commit war crimes.\(^2\) Article 7 states that, if a proposed export is not prohibited under Article 6, the State Party must assess the risk that the arms or other items “could be used to commit or facilitate” serious violations of IHL (Article 7(1)(b)(i)), including serious acts of GBV or serious acts of violence against women and children (Article 7(4)). The State Party must not authorize the export if, after completing its assessment and taking any risk-mitigation measures into account, it determines that there is an “overriding risk”.\(^3\)

In other words, States Parties have two key duties under the ATT with respect to GBV. First, Article 6 obliges them to consider whether the transferred arms or other items would be used to commit war crimes. And second, Article 7 requires them to carry out a comprehensive assessment of the risk that exported arms or other items could be used to commit or facilitate serious acts of GBV.

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2 This provision refers to “war crimes as defined by international agreements to which [the State Party] is a party”.
3 Some States Parties interpret the term “overriding” as “substantial” or “clear”, while others consider that an “overriding risk” would exist whenever any of the negative consequences listed in the treaty are more likely to materialize than not, even after mitigation measures are taken into consideration.
This working paper explains what serious acts of GBV amount to serious violations of IHL, in order to assist States in fulfilling these duties.

**GENDER-BASED VIOLENCE AS A SERIOUS VIOLATION OF IHL**

1. **Definition of gender-based violence**

While there is no universally accepted definition of “gender-based violence”, the term can be understood to refer to violence against persons, whether male or female, because of their sex and/or socially constructed gender roles. Likewise, there is no universally accepted definition of the term “gender”.

Yet the obligation, under Article 7(4) of the ATT, to assess risk with regard to GBV remains intact no matter how the State Party in question defines these terms. Indeed, disparities in understandings of definition do not prevent States Parties from conducting the required risk assessments in line with their respective understandings of the term “gender”. Some or all of the indications in this working paper may assist in this regard, across a range of States Parties’ interpretation of the term “gender-based violence” in Article 7(4).

In the sections that follow, we provide examples of serious violations of IHL that involve violence against people because of their sex and/or socially constructed gender role.

2. **Sexual violence**

It is well-established in international law that rape and other forms of sexual violence – including (but not limited to) sexual slavery, enforced prostitution, forced pregnancy, and enforced sterilization – are serious violations of IHL constituting war crimes in both international and non-international armed conflict.

In the ICRC’s view, these acts of sexual violence should be considered to constitute “serious acts of gender-based violence” under Article 7(4) of the ATT. A number of authorities have affirmed the understanding that acts of sexual violence are both serious violations of IHL and GBV. For the purpose of clarity, it bears

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4 This is the definition of “gender-based crimes” given by the International Criminal Court’s (ICC) Office of the Prosecutor in its Policy Paper on Sexual and Gender-Based Crimes, The Hague, June 2014, p. 3: https://www.icc-cpi.int/iccdocs/otp/otp-policy-paper-on-sexual-and-gender-based-crimes--june-2014.pdf. In line with its mandate, the Committee on the Elimination of Discrimination against Women (CEDAW) has also defined GBV against women: see CEDAW, General Recommendation 19, UN Doc. A/47/38, 1992, para. 6, as well as General Recommendation 35, updating General Recommendation 19, UN Doc. CEDAW/C/CG/35, 14 July 2017, para. 1. The Inter-Agency Standing Committee (IASC) has also defined GBV – see IASC, Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery, 2015, p. 5.

5 Article 7(3) of the Rome Statute of the International Criminal Court (the ICC Statute) defines “gender” as referring to “the two sexes, male and female, within the context of society. The term ‘gender’ does not indicate any meaning different from the above.” Interpretations of this definition differ.


8 For example, CEDAW has expressly identified these war crimes as forms of GBV in CEDAW, General Recommendation 35 on gender-based violence against women, updating General Recommendation 19, UN Doc. CEDAW/C/CG/35, 14 July 2017, para. 16. The UN Security Council, in Resolution 1325, identified rape and other forms of sexual violence occurring in situations of armed conflict as GBV and emphasized States’ responsibility to prosecute these war crimes: UN Security Council Resolution 1325, 31 October 2000, paras 10–11.
emphasizing that acts of sexual violence are gender-based, whether they are perpetrated against women, girls, men, or boys.9

Generally speaking, sexual violence has been understood to constitute a form of GBV because of the gender-specific causes, manners of perpetration, and/or impacts of these acts.10 In other words, sexual violence is a form of GBV because, among other reasons:

- **Forms of sexual violence are perpetrated differently against men and women.**11 For example, acts of rape (vaginal or other), mutilation of reproductive organs (breasts, penile, or other), forced pregnancy or forced abortion, or forced perpetration of sexual violence may be directed against and utilized differently depending on whether the victim is male or female;12

- **Health consequences of sexual violence differ for men and women.** Unwanted pregnancy and obstetric fistula13 are experienced only by women, and acts of violence can affect men’s and women’s reproductive capabilities in different ways.

- **Causes of sexual violence differ based on gender.** Women may be targeted because of the symbolic power gained from violating the (varied and context-specific) notion of “honour” that society ascribes to them,14 or in connection with the reproductive roles of women within a community (though the symbolic importance of reproduction can affect men, too) with aim to destroy the identity of a group.15 Men, meanwhile, may be targeted as a way to humiliate or emasculate them, drawing on entrenched – including internalized – gender norms by which penetration and other forms of domination equate to being “feminized”.16

- **The societal impact of – and the nature of the stigma associated with – sexual violence differs depending on the targeted gender.** Women may be ostracized from their community for their perceived loss of “chastity” or “value” as child-bearers, while men may face stigmas associated with (among others) connotations of subjugation (and corresponding “failure” to fulfill role of “protector”) or homosexuality.17 These impacts in turn differentially impact the ability of survivors to seek support services after experiencing of violence.

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9 The IASC has emphasized that although the term “gender-based violence” is often used interchangeably with the term “violence against women”, men and boys may also be victims of GBV. See IASC, *Guidelines for Gender-Based Violence Interventions in Humanitarian Settings: Focusing on Prevention of and Response to Sexual Violence in Emergencies*, September 2005, p. 4.


11 Indeed, more broadly, men, children, groups of detainees, or entire communities are subjected to distinct forms of sexual violence: P. Viseur Sellers, “(Re)considering Gender Jurisprudence”, in F. Ni Aoláin et al. (eds), *The Oxford Handbook of Gender and Conflict*, Oxford University Press, 2018, pp. 211–224, at p. 212.


3. **Other serious acts of gender-based violence**

GBV need not be sexual in nature; it is broader than (but includes) sexual violence. Accordingly, serious violations of IHL other than acts of sexual violence may constitute GBV, even if the treaty text of IHL rules uses gender-neutral terms. In these cases, what distinguishes GBV from any other form of violence is not necessarily the type of act itself (for example, killing) but that it is “gender-specific” in that it is committed against an individual because of their sex and/or socially constructed gender role.

Two (non-exhaustive) examples of GBV constituting a serious violation of IHL other than sexual violence are set out for illustrative purposes here.

i. **Unlawful killings**

IHL uses various terms to prohibit what may be referred to as “murder” in common parlance. For instance, the following such acts are serious violations of IHL constituting war crimes: wilful killing, directing attacks against civilians not taking a direct part in hostilities, and violence to life and person of those protected by Common Article 3 of the Geneva Conventions.

These serious violations of IHL may also constitute GBV in certain circumstances. For example, in some armed conflicts, military-age males are the victims of mass killings to prevent them from participating in hostilities.

In some armed conflicts warring parties uphold conflicting norms regulating female behavior, resulting in the contesting of girls’ education and the targeting of girls for attending schools. In some armed conflicts, competing value systems of warring parties precipitate the targeting of individuals because of their sexual orientation (i.e. where this is seen as a representation of the value system of the opposing party). Where these acts are committed in the context of and in connection with an armed conflict, they are therefore both GBV and serious violations of IHL.

ii. **Unlawful recruitment and use of children**

Acts of unlawful recruitment and unlawful use of children in hostilities are serious violations of IHL constituting war crimes.

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19 To be clear, such acts of GBV must occur in the context of and in connection with an armed conflict in order to be regulated by IHL. The issue of what constitutes a sufficient connection (often referred to as “nexus”) to armed conflict is discussed with regard to the rules on sexual violence in G. Gaggioli, “Sexual Violence in Armed Conflicts: A violation of IHL and human rights law”, IRRC, Vol. 96, No. 894, 2014, pp. 503–538, at 514–517.


23 The term “unlawful” is used here as a shorthand way of conveying the fact that the rules on the recruitment and use of children (e.g. the lawful age of recruitment) vary depending on the treaties to which a State is party. Regarding the criminalization of these acts, see the ICC Statute, Arts 8(2)(b)(xxvi) and 8(2)(e)(vii); Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC), Art. 4(2).
Such serious violations of IHL may also constitute gender-based violence in certain circumstances, in particular depending on the roles for which girls and boys are recruited.\textsuperscript{24} For example – and though not uniformly the case – some parties to a conflict may exclusively recruit boys as fighters, and some may exclusively recruit girls to fulfil more “domestic” roles involving cooking or cleaning (or indeed for conjugal and/or sexual purposes).\textsuperscript{25} Where girls or boys are differentially and unlawfully recruited or used to fulfil specific gender-based roles within armed forces or armed groups – i.e. when boys are recruited “because they are boys” and girls are recruited “because they are girls” – this is a gender-based serious violation of IHL.

**THE USE OF ARMS TO COMMIT OR FACILITATE SERIOUS ACTS OF GENDER-BASED VIOLENCE AMOUNTING TO SERIOUS VIOLATIONS OF IHL**

The ATT requires States Parties to consider the risk that transferred arms or other items might be used “in the commission of” (Article 6), or that exported arms could be used “to commit or facilitate” (Article 7), serious violations of IHL (including serious acts of GBV). The connection between the arms other items being transferred and a subsequent serious IHL violation will differ from one set of circumstances to the next. However, it is not hard to foresee situations where a weapon could be used to commit\textsuperscript{26} or facilitate a serious violation of IHL. Using a weapon to kill military-age males en masse is an example of a weapon being used to commit a serious IHL violation. Using a weapon to force someone into a place where they will be raped is an example of a weapon being used to facilitate a serious IHL violation, a concept that implies a degree of removal from the actual violation.

**ASSESSING THE RISK**

To help States party to the ATT uphold their commitment to make respect for IHL a key consideration in their arms transfer decisions, the ICRC has identified a series of indicators for assessing the risk that weapons or other items could be used to commit or facilitate serious violations of IHL, including acts of GBV. States Parties should consider, among other things:

- Whether the proposed recipient has complied with IHL and international human rights law in the past, and what steps it has taken to prevent, end or punish serious violations of the rules (including serious acts of GBV or serious acts of violence against women and children that amount to violations);

- What formal commitments the proposed recipient has made to abide by IHL and international human rights law, how it has enshrined those commitments in law and doctrine, and how they are reflected in training for its armed and security forces and other personnel;

- Whether the proposed recipient has sufficiently robust legal, judicial and administrative procedures to prevent, halt and punish violations of IHL and international human rights law.

More information about assessing the risk of serious violations of IHL, as well as a list of information sources relevant to these assessments, can be found in the ICRC’s *Arms Transfer Decisions: Applying International Law to Prevent, Halt and Punish Serious Violations of IHL*, \textsuperscript{27} available on the ICRC website.

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\textsuperscript{26} The ICRC considers that the phrases “in the commission of” (Art. 6(3)) and “to commit” (Art. 7(1)) have the same meaning.
Humanitarian Law and International Human Rights Law Criteria, Practical Guide (2016), available in Arabic, Chinese, English, French, Spanish and Russian.\textsuperscript{27}

Interpreting the Arms Trade Treaty:

International Human Rights Law and Gender-Based Violence in Article 7 Risk Assessments

April 2019

The Arms Trade Treaty (ATT) aims to reduce human suffering; prevent the illicit trade in arms; contribute to international and regional peace, security, and stability; and promote transparency and cooperation among States Parties. It requires States Parties to conduct good-faith assessments of the likely end use of arms transfers and the effects of those transfers in destination countries and obliges States Parties to refuse authorization for certain arms transfers.

Article 7(1) of the ATT requires an exporting State Party, when determining whether to allow an arms export, to assess the potential that the arms could be used to commit or facilitate a serious violation of international human rights law, among other things, as well as the potential that the arms would contribute to or undermine peace and security. Article 7(4) requires States Parties to take into account the potential for arms to be used to commit or facilitate serious acts of gender-based violence (GBV) or violence against women and children when conducting this risk assessment.

Article 7(2) requires that once a State Party determines that there is a risk of an Article 7(1) harm, the State Party must then consider if there are measures that could be established to mitigate that risk. Under Article 7(3), after a State Party considers mitigating measures, it must refuse to authorize an export if there remains an overriding risk of an Article 7(1) harm. The Article 7 risk assessment takes place only after the State Party has determined that the export is not absolutely prohibited under Article 6 (which prohibits exports when the State Party knows the arms would be used in the commission of genocide or crimes against humanity, among other things).

States Parties must consider gender and risks of GBV when they assess: the risk of serious human rights violations (or other Article 7(1)(b) harms); the effects on peace and security; and the availability of prospective mitigating measures. All of these feed into the final determination of whether an overriding risk exists.

This paper provides interpretive guidance on key terms that appear in Article 7, namely: “serious violation of international human rights law”; “serious acts of gender-based violence”; “commit or facilitate”; “peace and security”; “contribute to or undermine”; and “overriding risk.” It examines how gender and risks of GBV are relevant to each part of the Article 7 risk assessment, particularly with respect to serious violations of international human rights law.
Key Conclusions

● Whether a violation of international human rights law is serious is determined by the character (i.e., the gravity) of the violation and the extent of harm victims suffer. It is a relatively low threshold that requires a case-by-case, holistic assessment.
● GBV is inherently serious in nature, and acts of GBV constitute serious violations of international human rights law when they are perpetrated by state actors or when the state fails to take adequate measures to prevent, investigate, and punish GBV by private actors.
● The use of a weapon to “commit or facilitate” a human rights violation could refer to a wide range of acts, including actions taken by non-state actors. Specifically, “facilitate” covers uses of arms that make human rights violations easier, such as when the arms are one or more steps removed from the actual violation.
● The concept of peace and security in Article 7 is broad and covers not only state security, but also human welfare. Determining whether an export would contribute to or undermine peace and security requires assessing the export’s likely effects on all aspects of peace and security, including by undertaking a gender-based analysis and considering the role of women in promoting and maintaining peace and security.
● An “overriding risk” is one that cannot be substantially reduced or eliminated using mitigating measures. Whenever a State Party has identified a clear or substantial risk of a serious human rights violation, it is difficult to imagine measures that could effectively mitigate that risk.

This paper complements Control Arms’ Practical Guide on how to use the Arms Trade Treaty to address Gender-Based Violence, which provides guidance on the legal and policy frameworks relevant to GBV and outlines a variety of indicators and other measures export authorities can use to identify and understand risks of GBV in different contexts.¹

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Extracts from Article 7 (Export and Export Assessment)

1. If the export is not prohibited under Article 6, each exporting State Party, prior to authorization of the export of [covered arms] shall, in an objective and non-discriminatory manner, taking into account relevant factors … assess the potential that the conventional arms or items:

   a) would contribute to or undermine peace and security;
   b) could be used to:
      i) commit or facilitate a serious violation of international humanitarian law;
      ii) commit or facilitate a serious violation of international human rights law;
      …

2. The exporting State Party shall also consider whether there are measures that could be undertaken to mitigate risks identified in (a) or (b) in paragraph 1, such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States.

3. If, after conducting this assessment and considering available mitigating measures, the exporting State Party determines that there is an overriding risk of any of the negative consequences in paragraph 1, the exporting State Party shall not authorize the export.

4. The exporting State Party, in making this assessment, shall take into account the risk of the [covered arms] being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children.

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Interpreting “A Serious Violation of International Human Rights Law”

Assessing the potential that “a serious violation of international human rights law” could result from an arms export is a crucial element of the Article 7 risk assessment. Practitioners and scholars have widely agreed that the term “serious violation of international human rights law” covers a range of violations and is not limited to a specific subset of human rights abuses. The term sets a relatively low threshold. No single factor is key to this determination; rather, various factors influence whether a human rights violation is serious. Ultimately, many violations of international human rights law meet the seriousness threshold.

Evaluating the seriousness of a human rights violation requires a careful, holistic, and context-specific inquiry conducted on a case-by-case basis. That assessment must take into account the character of the violation (i.e., its gravity) and the extent of the harm suffered by victims. Harm need not be widespread, however, to be serious. A holistic assessment takes context into account (for example, who is being harmed and how, in the context of the society in question and the state’s human rights record), rather than focusing on an incident in isolation.

In some cases, it will be clear that a violation is serious. For example, breaches of certain fundamental international norms (called “jus cogens norms”) — such as the prohibition on torture — always amount to serious violations of human rights law. “Gross and systematic” violations — extremely severe violations that conform to a relatively consistent pattern over time — also clearly qualify as serious. Outside these clear cases, determining whether a violation is serious requires an in-depth evaluation.

Because the seriousness inquiry is highly context-specific, general hypothetical examples are difficult to formulate. Still, authoritative commentators have noted that, for example, forced marriage, sexual violence, and kidnapping can qualify as serious violations. Regardless, there is no comprehensive list of violations that qualify as serious. Rather, seriousness encompasses a wide range of violations and requires repeated, context-specific, case-by-case evaluation.

Gender-Based Violence as a Serious Violation of International Human Rights Law

To make Article 7(4) meaningful, GBV assessments must be part of the Article 7(1) risk assessment; in other words, States Parties must assess if the arms it exports could be used to commit or facilitate GBV that amounts to a serious violation of international human rights law. Scholars and UN bodies have come to recognize that GBV constitutes a violation of international human rights law. There is growing consensus that GBV is inherently serious in all cases, as it is “a form of discrimination that seriously violates and impairs or nullifies the enjoyment by women and girls of all human rights and fundamental freedoms.”

International Human Rights Obligations on Gender-Based Violence

A number of widely ratified international treaties contain obligations that suggest GBV violates international human rights law. Likewise, several regional treaties lay out obligations establishing forms of GBV as human rights violations.
Discrimination in the form of GBV is prohibited under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). While the text of CEDAW does not explicitly use the term “gender-based violence,” the CEDAW Committee — the body of independent experts charged with monitoring global implementation of CEDAW — has clarified that GBV constitutes unlawful discrimination as it “seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”

The Convention on the Rights of the Child (CRC) is also relevant because it seeks to protect children from violence, including GBV. The CRC requires States Parties to: “protect children from all forms of physical or mental violence”; prevent the “traffic in children for any purpose or in any form”; and ensure that no child is subjected to “cruel, inhuman or degrading treatment.” The CRC also specifically protects children in times of conflict. Each of these forms of violence can be gendered and therefore constitute GBV. (In any event, Article 7(4) requires an assessment of the risk of violence against women or children regardless of whether the violence is gender-based.)

Other international human rights treaties also contain obligations related to GBV. The International Covenant on Civil and Political Rights (ICCPR), for example, requires that States Parties “ensure the equal right of men and women to the enjoyment of all civil and political rights.” Any ICCPR State Party that discriminates on the basis of gender in its implementation of the treaty has violated its human rights obligations under the ICCPR. Similarly, the Convention against Torture (CAT), which prohibits torture and cruel, inhumane, or degrading treatment or punishment, defines torture as including acts of severe physical or mental pain or suffering that a public official (or someone acting with the acquiescence of a public official) intentionally inflicts “for any reason based on discrimination of any kind.” In other words, gender-based torture constitutes a distinct human rights violation, and one that is inherently serious because the prohibition on torture is a jus cogens norm.

Regional human rights treaties contain additional relevant obligations. The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belem Do Para), for instance, lays out duties on States Parties to: ensure that state agents refrain from engaging in any act or practice of violence against women; apply due diligence to prevent violence against women; and take all appropriate measures to modify legal or customary practices that sustain the persistence and tolerance of violence against women. Similarly, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) requires States Parties to adopt “legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women.”

Arms and Gender-Based Violence

The ATT was the first treaty to explicitly link arms exports with risks of gender-based violence (GBV). GBV is violence that is directed against a person on the basis of their gender or sex. It can include sexual, physical, economic, emotional, and psychological violence — all of which are severely underreported in most, if not all countries and are often overlooked in human rights discussions. GBV can include acts that inflict harm and threats of those acts, as well as coercion and other deprivations of liberty.

Arms are intimately linked to gender and GBV. For example, the majority of individuals with access to firearms are men and guns are generally closely associated with social understandings and expressions of masculinity; further, men constitute the majority of perpetrators and victims of gun violence, while women are rarely perpetrators, but often victims. See the Control Arms’ Practical Guide for further discussion on the role of arms in GBV.
Perpetrators of Gender-Based Violence and the “Due Diligence” Obligation

Conducting the Article 7 risk assessment requires an understanding of the full scope of states’ obligations and responsibilities under international human rights law. All states must ensure that they work to respect, protect, and fulfill human rights. When state actors or individuals acting with the state’s authorization abuse human rights, the state has violated its obligations under international human rights law. However, the state can also be responsible for actions by non-state actors — such as private individuals, companies, and armed groups — that would constitute violations if they were committed by state actors. This is the case when the state fails to meet a “due diligence” standard to prevent, investigate, and punish such actions.

“Due diligence” requires states to work in good faith to comprehensively address the causes and effects of human rights violations through targeted interventions, as well as more general measures to ensure compliance with human rights law (such as robust legislative frameworks). Interventions must be both responsive — i.e., specifically designed to respond to the problem — and effective in impact.

As a result, GBV constitutes a serious human rights violation when it is committed by state agents or when the state fails to meet its due diligence obligation in preventing, investigating, and punishing GBV by private actors. The CEDAW Committee has specifically noted that a state’s failure to comply with its due diligence obligation amounts to a human rights violation. Other authoritative bodies have affirmed the significance of the due diligence standard in the context of GBV. For example, the Special Rapporteur on violence against women, its causes and consequences — an expert appointed by the UN Human Rights Council — has released guidance arguing that states’ obligation to prevent and respond to GBV is now a norm of customary international law — in other words, a norm binding even on those states that are not party to CEDAW.

Due Diligence” and Gender-Based Violence

The Special Rapporteur on violence against women has made clear that due diligence requires states to pursue “all those means of a legal, political, administrative and cultural nature that promote the protection of human rights.” These means must comply with four principles: non-delegation (a state cannot delegate its due diligence responsibilities); non-discrimination (the state must combat the particular form of violation as it does other violations); good faith (the state must commit to action — enacting empty legal provisions is insufficient); and grounding in empirical data (the state must collect and analyze data to inform and evaluate its efforts).

According to the Special Rapporteur, in the GBV context, due diligence not only requires prevention, protection, and punishment, but also reparation. Measures could include:

- **Prevention:** public education campaigns, gender sensitization programs in government agencies, collection of data on GBV and its prevalence.
- **Protection:** ensuring the availability of counseling, health services, shelter, and financial assistance, as well as strengthening court processes that enable victims to access those protections.
- **Punishment:** investigating and prosecuting cases of GBV, ensuring respect for the rule of law, and achieving reasonable conviction rates and appropriate sentencing guidelines and outcomes.
- **Reparation:** making sure victims have access to resources to repair harm, such as legal remedies and rehabilitative services, as well as other measures that may additionally feed into protection or prevention.

A state’s broader behavior also matters in assessing its compliance with the due diligence standard. Factors that might be relevant in this assessment include the state’s ratification of human rights treaties, the presence of legal guarantees of gender equality, and data collection around GBV, among others.
Interpreting “Commit or Facilitate”

The Meaning of “Commit or Facilitate”

The phrase “commit or facilitate” appears in Article 7(1) and (4): an export authority must “assess the potential that the conventional arms … could be used to commit or facilitate” a violation of specified parts of international law and “take into account the risk of the conventional arms … being used to commit or facilitate serious acts of gender-based violence.” Under international law, treaty terms should be interpreted in light of their ordinary meaning, the context in which they are used, and the treaty’s object and purpose. Using this approach, commit should be interpreted as “to perpetrate or carry out” and facilitate as “to make easier.”

When there are two or more potential ordinary meaning interpretations of a term, context helps identify which meaning prevails. In this case, the ordinary meaning of “commit” as “to carry into action deliberately” or to “perpetrate or carry out” is the meaning that context supports. Alternative meanings, such as “to promise,” would not make sense in the context of the surrounding language in the Treaty (for example, arms could not logically be used to “promise” a serious violation of international human rights law).

As “commit” implies directly carrying out an action, “facilitate” must mean something different. The ordinary meaning of “facilitate” is “to make easier or less difficult; help forward” and “to make something possible or easier,” suggesting “facilitate” adds a broader range of conduct and arms usage that export officials should consider. Context supports this interpretation as there is only one ordinary meaning to the word “facilitate.”

The ATT’s purposes bolster this conclusion. Two of the Treaty’s stated purposes are to “[c]ontribut[e] to international and regional peace, security, and stability” and “[r]educ[e] human suffering.” A plain meaning interpretation of the terms “commit or facilitate” reinforces the purposes of the ATT to prevent instability and human suffering because it is broad, ensuring that export officials consider a wide range of potentially destabilizing and harmful uses of arms.

A narrow construction, such as one based in state complicity or aiding and abetting liability, would not fulfill the Treaty’s object and purpose because these standards come from legal regimes that aim to assign fault to individual actors for past actions rather than to prevent potential systemic harms. The Article 7 risk assessment involves considering the role of the weapons in the commission of possible future violations, rather than establishing the liability of different actors for those violations.
“Commit or Facilitate” in the Context of Gender-Based Violence

It is relatively straightforward to envisage how arms could be used to “commit” an act of GBV that amounts to a serious human rights violation. For example, state actors that use guns to kill or assault women or LGBTQI individuals because of their gender identity as part of a policy of discrimination are committing acts of GBV that amount to a serious human rights violation.

“Facilitate” encompasses a much wider range of uses of conventional weapons than the term “commit.” Generally, conventional arms facilitate GBV and human rights violations by emboldening the weapon holder and subduing the victim and by exacerbating the harm caused by the act. A clear example is when state actors, such as police or military forces, use guns to facilitate rape: the threatening presence of a gun can facilitate rape by preventing resistance from victims.

Sexual violence, including rape and genital mutilation, is especially prevalent in detention settings. When armed guards commit sexual violence, the presence of their weapons can facilitate that violence by preventing resistance. Even when unarmed detainees perpetrate sexual violence against other detainees, the presence and use of arms by guards may still facilitate that sexual violence. For example, if prison authorities are not meeting the due diligence standard (for instance, because they have failed to put in place adequate measures to prevent, investigate, and punish sexual violence among detainees), guards’ use of arms to restrict victims’ movements could facilitate a serious human rights violation. Likewise, if armored vehicles are used to transport detainees to a prison where GBV-related serious human rights violations are taking place, the vehicles can be said to facilitate those acts.

A broad interpretation of “facilitate” receives support from the Oxford Commentary on the ATT. The Commentary lists “weapons that could be used to round up people who are later summarily executed with other weapons or by other means” as an example of a serious human rights violation facilitated by arms. In this example, the violation itself is the execution of victims; the arms facilitate this violation by making it easier to gather the victims by intimidating them into submission. In other words, the use of arms “may be one or more steps removed from the actual violation” but still facilitate the violation.

Weapons in the hands of actors unaffiliated with the state — such as private individuals, criminal gangs, and others — can also be used to facilitate serious human rights violations. Private action can implicate international human rights law if a state fails to meet its due diligence obligations. One of the most prominent examples of private acts of GBV that could amount to a serious human rights violation is domestic violence. Arms can enable and exacerbate, and therefore facilitate, private acts of domestic violence both by escalating the level of harm in situations of domestic abuse and by wearing down the resistance of victims, who may live in a constant state of fear. This non-state use of arms facilitates a violation of human rights law if the state does not have responsive and effective measures in place to sufficiently address domestic violence. Similarly, the state has not met the due diligence standard if it fails to act to curb armed violence by gangs perpetrated against victims because of their gender.
Interpreting “Peace and Security”

The Meaning of “Peace and Security”

As part of the Article 7 risk assessment, the exporting state is required to examine the potential that the arms would “contribute to or undermine peace and security.” The term “peace and security” should be understood as broad in scope, both geographically and substantively: a holistic interpretation requires states to consider the effect of arms exports on human welfare, especially in relation to their gendered impact, particularly on women.

The term “peace and security” in Article 7(1) is not confined to conflicts between two or more states. While references to “international” and “regional” peace and security in the UN Charter or in other provisions of the ATT suggest geographic limitations, Article 7(1) refers simply to “peace and security.” As a result, the concept covers domestic peace and security concerns as well as international or regional concerns.

Importantly, the term “peace and security” encompasses more than the absence of conflict or armed violence: it also includes an assessment of human welfare. Both the UN General Assembly and the Security Council have endorsed the idea that human welfare is an integral component of sustainable peace and security. This principle is rooted in the UN Charter, which refers to the need to protect the “material conditions of peace” to secure lasting peace and security. The substance of human welfare is broad and not limited to the absence of physical threats to life; it includes, for example, socioeconomic welfare, dignity, and effective rule of law, among other aspects. The ATT itself recognizes the link between human welfare and “peace and security” through its preambular reference to the “mutually reinforcing” relationship between human rights and peace and security.

The connection between human welfare and peace and security is especially well-developed in the context of women, peace, and security. In particular, the Security Council has highlighted the need for a gender-based analysis of “peace and security.” In its groundbreaking Resolution 1325, the Security Council emphasized the “importance of [women’s] equal participation and full involvement in all efforts for the maintenance and promotion of peace and security,” and the Council has further developed the concept in subsequent resolutions. In addition, the Council has recognized the gendered impact of conflict and its relationship to peace and security, noting that an effective response to women’s and girls’ needs can significantly advance peace and security. The Security Council has also committed to incorporating gender-related analysis in all its discussions on peace and security.
The Meaning of “Contribute to or Undermine”

While the UN General Assembly and Security Council frequently refer to “threats” to peace and security, Article 7(1) requires states to consider whether arms exports would “contribute to or undermine” peace and security. Measures that could contribute to “peace and security” (in the state security sense) could be either responsive — i.e., adopted during or in the wake of conflict — or preventive — i.e., adopted in the absence of conflict, and designed to prevent the onset of conflict. For instance, among the main measures that the UN adopts to maintain peace and security, some — such as peacekeeping, peacebuilding and countering terrorism — are responsive in nature, while others — preventive diplomacy and disarmament — are preventive.

The Oxford Commentary provides an illustrative list of potential contributions to peace and security, including arms exports that would enable a state “facing an insurgency or a terrorist threat to be able to defend itself,” “to deter or ward off external aggression,” or “to seal and control its borders to prevent infiltration by foreign terrorists or organized criminal gangs.” Examples of exports that would undermine peace and security could include providing arms to states that may wage illegal war against other states, engage in “wanton oppression of [their] own people or a national minority,” or fuel regional arms races. These examples envisage both domestic and international peace and security concerns, as well as human welfare considerations.

Notably, as Article 7(1)(a) uses the word “would” (i.e., the arms “would contribute to or undermine”) the threshold for certainty is higher than it is under Article 7(1)(b), which uses the word “could” (i.e., “could be used to commit or facilitate” a harm).

“Contribute to or Undermine”: Factors to Consider

To determine whether an arms export would contribute to or undermine peace and security, States Parties should:

- Examine the likely effects of the proposed export on international or regional peace and security, bearing in mind that preventive measures such as disarmament and arms export restrictions can promote peace and security.
- Consider the likely effects on domestic peace and security, such as the role the arms would play in addressing or exacerbating civil insurgencies, local unrest, and state persecution.
- Evaluate to what degree the quantity and type of arms proposed for export would make a difference to the peace and security situation.
- Throughout the assessment, explicitly assess the arms’ likely effects on human welfare, including by undertaking a gender-based analysis. For instance, if a State Party was assessing whether to export arms to a state with a poor human rights record that was facing an internal threat to domestic stability, the potential for negative consequences to human welfare to stem from the export could nullify the possibility of the arms making a contribution to peace and security, despite the internal threat.
- Recognize, as discussed below, that if a clear or substantial risk of serious human rights violations exists, the export would inherently seem unable to contribute to a concept of peace and security that encompasses considerations of human welfare.
Interpreting “Overriding Risk”

The final step in assessing whether to authorize an export is determining whether an “overriding risk of any of the negative consequences” in Article 7(1) exists. If there is an overriding risk, the State Party must deny the export. Gender and GBV considerations are relevant to every part of the risk assessment, including the final determination of whether the risk is overriding.

The International Committee of the Red Cross (ICRC) has noted that interpretations of “overriding risk” as synonymous with “clear” or “substantial” risk are in line with the Treaty’s object and purpose of reducing human suffering. Interpreting overriding risk as a risk of an Article 7(1) harm that is more likely than not to occur (even after considering mitigating measures) would likewise be consistent.

Another way of understanding the concept is to recognize that an overriding risk exists when the potential Article 7(1) harms cannot be mitigated under Article 7(2). Mitigating measures are forward-looking steps the exporting state can take, in coordination with the importing state, to minimize or eliminate the risk(s) identified. The ICRC has noted that such measures should be “timely, robust and practical” and “assessed cautiously in terms of what is realistically achievable in the circumstances.” An importing state’s agreement to provide gender sensitivity training to its family court judges, for example, might qualify as a mitigating measure in a state where prosecution of domestic abusers is notoriously low (although this measure alone would not in itself sufficiently mitigate the risk of GBV as a serious human rights violation).

If a State Party has identified that the risk of serious human rights violations stemming from the proposed export is clear or substantial, it is hard to imagine how that risk could be successfully mitigated. Similarly, the idea that an arms export could pose a clear or substantial risk of a serious violation while at the same time contributing to peace and security seems inherently contradictory. In such cases, because there is an overriding risk of harm, the export must be denied.

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1 How to Use the Arms Trade Treaty to Address Gender-Based Violence: A Practical Guide for Risk Assessment, Control Arms, August 2018.
3 Ibid, p. 5.
4 Ibid.
6 Casey-Maslen, et al, see note 5, para. 7.79, 7.81. See also The Arms Trade Treaty: A Practical Guide to National Implementation, Small Arms Survey, August 2016, p. 67; How to Apply Human Rights Standards to Arms Transfer Decisions, see note 5, p. 3; How to Use the Arms Trade Treaty to Address Gender-Based Violence, see note 1, p. 6.
7 Casey-Maslen, et al, see note 5, para. 7.79–7.81. See also Brandes, see note 5; Applying the Arms Trade Treaty to Ensure the Protection of Human Rights, Amnesty International, February 2015, p. 3; How to Use the Arms Trade Treaty to Address Gender-Based Violence, see note 1, p. 6.
8 Such norms are also called peremptory and non-derogable norms of customary international law. See Brandes, see note 5, p. 399.
9 See, e.g., Brandes, see note 5, p. 399; How to Use the Arms Trade Treaty to Address Gender-Based Violence, see note 1, p. 6.
10 See Brandes, see note 5; Takhmina Karimova, What amounts to "a serious violation of international human rights law? An analysis of practice and expert opinion for the purpose of the 2013 Arms Trade Treaty, Geneva Academy, August 2014, p. 10; M.E. Tardu, “United Nations Response to Gross Violations of Human Rights: The 1503 Procedure Symposium International Human Rights,” Santa Clara Law Review, 1980, p. 582. In addition, it is worth noting that “gross and systematic” violations largely overlap with the definition of “crimes against humanity.” Because the use of weapons to commit crimes against humanity is already covered in the ATT’s Article 6(3) (albeit under a different standard of risk), and because the definitions of “gross and systematic” violations and “crimes against humanity” are similar, reading a “serious violation of international human rights law” to require that violations be “gross and systematic” would create an unnecessary redundancy within the ATT. Note that the Rome Statute defines “crimes against humanity” as “inhuman acts … intentionally causing great suffering, or serious injury to body or to mental or physical health,” when “committed as part of a widespread or systematic attack directed against any civilian population.” Article 7, 1998 Rome Statute.
11 Karimova, see note 10, Annex.
13 Applying the Arms Trade Treaty to Ensure the Protection of Human Rights, see note 7, p. 13.
14 See CEDAW General Recommendation No. 19, see note 12, para. 1, 7; Convention on the Elimination of All Forms of Discrimination against Women, see note 12.
15 How to Use the Arms Trade Treaty to Address Gender-Based Violence, see note 1, p. 3
16 Ibid.
17 Ibid.
18 Ibid.
19 Ibid.
21 The majority of firearm owners and individuals in professions with easy gun access, such as police officers, are men. Gender and SALW Control: Legislative and Policy Frameworks, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), October 2016, p. 3.
22 Ibid. See also Small Arms Survey 2014: Women and Guns, Small Arms Survey, 2014, p. 14; Barbara Frey, “The Gender Implications of Small Arms and Light Weapons in Conflict Situations,” in The Oxford Handbook of Gender and Conflict, December 2017, p. 2 (explaining how armed men are socially construed either as protectors of women or other vulnerable individuals or as perpetrators); Women, Gender and Gun Violence in the Middle East, International Action Network on Small Arms (IANSA)’s Women’s Network, October 2011, p. 9 (noting how arms represent manhood; in Lebanon, for example, when a baby boy is born, there is often a celebratory exclamation that the family “ha[s] increased by one gun”).
24 CEDAW General Recommendation No. 19, see note 12, para. 7.
26 Ibid, Article 35.
27 Ibid, Article 37.
28 Ibid, Article 38.
29 How to Use the Arms Trade Treaty to Address Gender-Based Violence, see note 1, p. 3. See also Applying the Arms Trade Treaty to Ensure the Protection of Human Rights, see note 7, pp. 9–11.
30 Article 3, 1966 International Covenant on Civil and Political Rights.
31 Ibid. See also Article 4(1), 1966 International Covenant on Civil and Political Rights.
32 Article 1, 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
33 Article 7, 1994 Convention of Belem Do Para.
36 Ibid, para. 34–36.
39 Ibid.
40 Ibid, p. 27.
41 See *The Due Diligence Standard as a Tool for the Elimination of Violence Against Women*, see note 35, para. 32.
44 15 Years of the United Nations Special Rapporteur, see note 38, p. 26.
47 *CEDAW General Recommendation No. 19*, see note 12, para. 9.
48 *The Due Diligence Standard as a Tool for the Elimination of Violence Against Women*, see note 35.
49 Article 7(1)(b), 2013 Arms Trade Treaty.
50 Ibid, Article 7(4).
54 Context is used to inform the ordinary meaning of treaty terms where “two or more possibilities come forward” to determine which of the possibilities is the most compelling. Richard K. Gardiner, *Treaty Interpretation*, 2015, p. 198. For example, an alternative meaning of “commit” would be to make a promise. See, e.g., “Commit,” *Cambridge Dictionary*, 2019 (“to promise or give your loyalty, time, or money to a particular principle, person, or plan of action”). However, the context in which “commit” appears shows that the suggested meaning of “to carry out an action” should be preferred, as the alternative meaning would be absurd.
55 If “facilitate” had been intended to have a narrower meaning than “commit,” then it would be encompassed in “commit” and therefore be superfluous. Generally, a good faith interpretation under the Vienna Convention requires that an interpretation of a treaty term that gives it meaning and role is preferred over an interpretation that does not. See Gardiner, see note 56, p. 168. *The Arms Trade Treaty: A Commentary* notes this difference, emphasizing the distinction between Article 6(3), which requires a likelihood that the weapons will be used in the “commission of” the listed offenses and does not mention facilitation, and Article 7, where showing that the weapons could be used to “commit or facilitate” would
require an export authority to deny an export (if the risk is overriding). Casey-Maslen, et al, see note 5, para. 7.35.


60 Further, the ordinary meanings of “commit” and “facilitate” are not ambiguous or obscure nor do they lead to “manifestly absurd or unreasonable” results. As a result, recourse to supplementary sources of interpretation (such as the Treaty’s travaux préparatoires) is not necessary. Article 32, 1980 Vienna Convention on the Law of Treaties.

61 Article 1, 2013 Arms Trade Treaty.

62 The Commentary draws a parallel between the ATT’s “facilitate” language with the doctrine of “state-to-state complicity.” Casey-Maslen, et al, see note 5, para. 7.35. While some elements of complicity may shed light on practical meanings of the term, too direct of a link between “facilitate” and the fault-based standard of complicity does not logically fit with the language of the Treaty and does not best serve the purpose of the Treaty to prevent instability, violence, and suffering. First, complicity requires intentionality. See e.g., Draft articles on Responsibility of States for Internationally Wrongful Acts, A/56/10, 2001, (International Law Commission). Such intentionality does not appear to be a requirement of the Treaty text. See Article 7(1), 2013 Arms Trade Treaty (directing states to “assess the potential that the conventional arms or items . . . could be used to” commit or facilitate certain harms) (emphasis added).

Nor would intentionality be practicable for export officials to ascertain ex ante. Second, “responsibility for complicity only accrues after the principal wrongful act is committed.” Vladyslav Lanovoy, “Complicity,” in Max Planck Encyclopedia of Public International Law, December 2015, ¶ 14 (emphasis added). This is in direct contrast to the inherently forward-looking and preventive nature of the ATT. See Article 7(1), 2013 Arms Trade Treaty (directing states to consider the potential that the arms “could be used” to commit harms) (emphasis added). The same criticisms apply to the aiding and abetting standard, which is drawn from international criminal law, and likewise assigns fault at an individual level. Because the consequences of criminal liability are severe — e.g. deprivation of liberty — a high level of certainty is required before liability attaches. Such a standard would not align with the ATT’s preventative purposes.

63 Guns are not the only arms relevant to GBV. For example, there have been instances where women were forced to strip naked and act as human shields for battle tanks. Preventing Gender-Based Violence Through Arms Control, see note 20, p. 26.

64 See, e.g., The Arms Trade Treaty: Securing Women’s Rights and Gender Equality, see note 20, p. 2 (“Emboldened by weapons, power and status, both State and non-State parties often perpetrate gender-based violence, disproportionately affecting women with impunity.”). See also Frey, see note 22, p. 2 (discussing how small arms used in conflict exacerbate existing gender differences in societies by increasing the social and physical power of men in the public and private spheres and exacerbate physical and social constraints upon women and girls); Disarming Domestic Violence: A survey on proliferation and misuse of small arms and light weapons (SALW), International Action Network against Small Arms, 2012, p. 4 (noting that guns in the home are part of a “cycle of intimidation” in domestic violence contexts).

65 E.g., Wendy Cukier, “Global Effects of Small Arms: A Gendered Perspective,” in In the Line of Fire: A Gender Perspective on Small Arms Proliferation, 2001, p. 16 (noting how the risk of being murdered by an intimate partner increases with the availability of firearms); see also Disarming Domestic Violence, see note 64, p. 4 (noting that women are three times more likely to die violently if there is a gun in the home); The Impact of Guns on Women’s Lives, Control Arms, 2005, p. 11 (having a gun in the home increased the overall risk of someone being murdered by 41 per cent but for women the risk increased by 272 per cent); Gender and SALW Control: Legislative and Policy Frameworks, see note 21, p. 3 (noting that the presence of guns in the home dramatically increases the likelihood of a lethal outcome in domestic violence settings); Women, Gender and Gun Violence in the Middle East, see note 22, p. 12 (noting that in certain countries the increasing availability of small arms has led to an increase in the number of honor crimes against women).

See, e.g., Sexual Violence in Detention, see note 67, p. 2 (noting that detention is "essentially coercive" because individuals deprived of their liberty cannot give genuine consent to sexual matters). See also An Emergency Human Rights Crisis: Sexual Violence in Philippine Detention Facilities, Just Detention International, April 2009, p. 2; Prisoner Rape is Torture Under International Law, Just Detention International, February 2009, p. 1–2 (noting that rape in detention settings, "whether committed by corrections staff or by detainees, is recognized internationally as torture"); Jailing Women in Turkey: Systematic Campaign of Persecution and Fear, Stockholm Center for Freedom, April 2017, p. 3 (describing how women have been more frequent targets of imprisonment).

68 See, e.g., Sexual Violence in Detention, see note 67, p. 2 (noting that detention is "essentially coercive" because individuals deprived of their liberty cannot give genuine consent to sexual matters).
A Humanitarian Perspective in all thematic debates, such as those on terrorism or conflict prevention. To strengthen its “gender and conflict analysis,” and to discuss concerns around women, peace and security resolution and conflict prevention and expressing concern over the lack of female voices in peace processes; Resolution 1325 (2000); see note 2.

Resolution 1889 (2009), see note 82 (articulating the “vital role” of women in peacebuilding, conflict resolution and conflict prevention and expressing concern over the lack of female voices in peace processes); Resolution 1820 (2008), S/RES/1820, 19 June 2008, (Security Council) (emphasizing the importance of including women in all efforts for the maintenance of peace and security).

Resolution 1674 (2006), S/RES/1674, 28 April 2006, (Security Council); Resolution 1820 (2008), see note 90.

Resolution 1889 (2009), see note 82.

Resolution 2122 (2013), see note 82. See also Report of the Secretary-General on women and peace and security, S/2013/525, 4 September 2013, (Security Council) (calling upon the Security Council to strengthen its “gender and conflict analysis,” and to discuss concerns around women, peace and security in all thematic debates, such as those on terrorism or conflict prevention).


Article 7, 2013 Arms Trade Treaty.


The UN Security Council has employed such expansive interpretations of “peace and security” in a range of resolutions. See, e.g., Resolution 2122 (2013), see note 82; Resolution 1889 (2009), see note 82; Resolution 1325 (2000), see note 82. The UN Charter bolsters the view that both responsive and preventive measures can contribute toward “peace and security,” by referring to both “prevention and removal of threats to the peace.” Article 1, 1945 Charter of the United Nations; D’Argent and Susani, see note 76.


Remarks by High Representative Izumi Nakamitsu at the first meeting of the 2018 session of the United Nations Disarmament Commission, United Nations Office for Disarmament Affairs, 2 April 2018; UN Secretary-General’s remarks to the Conference on Disarmament, 25 February 2019.

In fact, preventing conflict is one of the topmost priorities of the UN Secretary-General. Factsheet: Helping Prevent Conflict and Sustain Peace, United Nations Department of Political Affairs, August 2017.

Casey-Maslen, et al, see note 5, para. 7.33.

Ibid, para. 7.34.


In other words, Article 7(3) asks if the risks can, in fact, be mitigated, or if the risks will override potential mitigating measures. Article 7(3), 2013 Arms Trade Treaty.

Understanding the Arms Trade Treaty from a Humanitarian Perspective, see note 104, pp. 36–37.

Ibid.

Ibid., pp. 38–39.
Gender-Based Violence in Articles 6 and 7

Summary:

This session will involve interactive discussions on the practical application of the risk assessment, as well as discussion on national experiences of including GBV in Article 6 process and the Article 7 risk assessment.

Guiding Questions:

- How does Article 7(4) fit within the Article 7 risk assessment?
- How do states understand their GBV obligations under Article 7?
- How does GBV relate to the Article 7 risk assessment, as well as Articles 6 and 11?

Readings:

- International Committee of the Red Cross, *International Humanitarian Law and Gender-Based Violence in the Context of the Arms Trade Treaty,* April 2019 (entire document – read on day one)
Covered Arms and Gender-Based Violence

Summary:
This session will outline the range of weapons covered by the ATT, particularly those that can be used to commit or facilitate acts of GBV, with examples.

Guiding questions:
- What kind of arms are covered in the ATT?
- How can different types of arms be used to commit or facilitate acts of GBV?

Readings:
- Reread Article 2 of the ATT
Building an Evidence Base on Gender-Based Violence

Summary:
This session will provide an overview of how to build an evidence base on GBV in different contexts. We will address the challenges involved in conducting robust research on GBV.

Guiding questions:

- What are the main challenges and possible solutions to constructing an evidence base on GBV in different contexts?
- How has your country usually approached GBV reporting?

Readings:

- Control Arms, *How to use the Arms Trade Treaty to address Gender-Based Violence: A Practical Guide for Risk Assessment*, 2018 (extracts)
- United Nations, *Indicators to measure violence against women* (extracts)
Gender-based violence is notoriously under-reported—for understandable reasons. Experience of violence is highly stigmatized and victims are often shamed. Respondents may be fearful of retaliation if perpetrators and others find out they have disclosed their experiences. There may also be cultural taboos (https://link.springer.com/article/10.1007/s12187-017-9457-8) about disclosing violence, which may be seen as a family issue. This is why most official statistics on gender-based violence are said to be the lower bound of the true prevalence within a population.

In an earlier study (https://academic.oup.com/aje/article/179/5/602/143069) we published using nationally representative data from 24 countries, we found that most women who experienced physical or sexual intimate partner violence (IPV) had never told anyone. Only a third of women disclosed to friends or
Researchers have long invested in designing and implementing surveys to measure the incidence of violence while seeking to both maximize disclosure and minimize harm (http://apps.who.int/iris/bitstream/10665/251759/1/9789241510189-eng.pdf). However, these careful fieldwork considerations often come at a price. For example, survey instruments which ask behaviorally specific questions for IPV (commonly collected in the EDHS and currently the gold standard (https://dhsprogram.com/pubs/pdf/DHSQMP/domestic_violence_module.pdf)), can be lengthy to complete. In addition, survey teams must undergo specialized ethics training, provide anonymous referrals to services, employ same sex enumerators, and implement sampling methods to ensure that both women and perpetrators are not interviewed in the same household (or, at times, in the same communities). All this comes at a cost, which may overburden or be logistically infeasible for multi-topic surveys which are not primarily focused on violence.

What if there was a way to collect information about violence, while reducing under-reporting without directly asking about violence?

A 50 year old woman who has been affected by gender-based violence receives counseling at One Stop Centre that provides support at the Gihundwe hospital in Rusizi district in Rwanda. In a recent publication (http://onlinelibrary.wiley.com/doi/10.1002/hec.3588/abstract) in Health Economics, we implemented a list randomization to assess the impact of an unconditional cash transfer program on IPV in rural Zambia. List randomization (https://imai.princeton.edu/research/files/listP.pdf) or list experiments, are not a new technique. They have been utilized by Political Scientists for decades to examine public opinion on sensitive topics which respondents were likely to misreport (think racial...
In basic terms, list randomization aggregates a response to a sensitive question alongside responses to non-sensitive questions, thereby masking the respondent's specific answer to the sensitive question. By randomizing lists with and without the sensitive question, researchers can identify prevalence or incidence of the sensitive item within the population or differences between groups (for example treatment and control), but not attribute the sensitive response on an individual basis. If respondents believe that their sensitive answer is not disclosed to the interviewer, they may be more likely to report private behaviors, such as experience of violence.

In our study, we asked one sensitive question to female primary caretakers of children under the age of five at the start of the study: "In the past 12 months, have you ever been slapped, punched, kicked or physically harmed by your partner" in combination with four non-sensitive questions of the same recall period. An example of the non-sensitive questions is: "In the past 12 months have you ever taken care of a sick relative who is unable to care for themselves?" Respondents were asked to report how many of the items they experienced in total (but not which specific items). The data collection was part of the four-year follow-up of a longitudinal randomized control trial where the beneficiary group received an unconditional child grant program (CGP) provided by the Government of Zambia. In our study, we were interested in two things. First, was it feasible to implement the list randomization in a large-multi topic survey—would enumerators collect the data correctly and would prevalence of violence be credible? Second, since the CGP had been highly successful in meeting its main poverty-related objectives (https://www.unicef-irc.org/publications/pdf/IWP_2016_21.pdf), and increased the financial standing (https://www.unicef-irc.org/publications/pdf/IWP_2016_02.pdf) of women, we wanted to know if the cash transfer also affected IPV (a potential which has been demonstrated elsewhere (https://www.aeaweb.org/articles?id=10.1257/app.20150048)).

What do we find? First, the list randomization appeared to function as planned, with no evidence of 'too low' or 'too high' reporting across groups of questions (referred to as ceiling and floor effects (https://imai.princeton.edu/research/files/listP.pdf)). We estimated 15 per cent of women had been exposed to physical IPV in the last year. This is lower than the DHS estimates (https://www.dhsprogram.com/pubs/pdf/FR304/FR304.pdf) for Zambia of the same year (2014), which estimate a 21 per cent prevalence for past year physical IPV. This is not surprising as the DHS asks seven questions about specific violent acts which are aggregated to produce this figure. Moreover, when we analyze the impacts of the program, we find that after four years, the CGP resulted in no measurable increases or decreases in IPV. Despite these interesting findings, we are not able to assess the level of underreporting for IPV specifically for the same reasons we could not implement a full IPV module: As the evaluation was not focused on violence or gender topics, there was no logistical room to add complex ethical and logistical arrangements to the evaluation needed to collect IPV measures.

However, two other recent working papers have experimented with this approach and shed light on measurement bias.

The first paper, by Joseph and colleagues [Underreporting of Gender-based Violence in Kerala, India (http://documents.worldbank.org/curated/en/233811493218846386/pdf/WPS8044.pdf)], examines two types of violence: domestic violence and physical harassment on buses. The authors measure both questions at the household level (e.g. at least one woman in my household has faced physical aggression from her husband; at least one woman/girl in my household has faced physical harassment while traveling on public/private buses). They find that underreporting is over nine percentage points for IPV, however negligible for harassment. They also find a number of sub-groups are more likely to underreport, for example urban households and poorer households are more likely to underreport IPV, as are female
respondents. Although a useful demonstration of reporting bias, the analysis is complicated by the fact that the questions are asked at the household level, and thus are not cleanly comparable to the gold standard of women’s self-reports. However, it does suggest that respondents in general are more likely to disclose an incident of ‘public’ harassment as compared to ‘private’ abuse—as hypothesized by the literature on underreporting.

The second paper, by Agüero and Frisancho [Misreporting in Sensitive Health Behaviors (https://sites.tufts.edu/neudc2017/files/2017/10/paper_105.pdf)], conducts a list randomization for physical and sexual IPV among female micro-credit clients in peri-urban and rural areas of Lima, Peru. The nice thing about this paper is that the authors conduct nine separate list experiments for each IPV item, thus they are able to compare each IPV item separately (being pushed, being slapped, being threatened with a knife, gun or weapon etc.). In comparing women who were asked the list experiment and those who were asked the direct question—they find no significant differences. However, digging deeper, they find there are differences by level of education of the woman. In particular, women with completed tertiary education report higher levels of IPV under the list experiment as compared to the direct questioning. The implications are that reporting bias may differ by characteristics of the woman, thus changing our conclusions about who suffers from violence, or how interventions affect different sub-groups of women. In this case, authors conjecture that higher educated women may face larger (real or perceived, including higher stigma) costs of being exposed and require higher levels of confidentiality to make them feel safe. However, there are no differential effects by other characteristics of the women, including age, marital status, employment status, memory scores or others, suggesting overall differences between the two methods are limited.
Taken together, these three papers build on efforts across disciplines (http://onlinelibrary.wiley.com/doi/10.1111/sifp.12042/full) to consider the usefulness and applicability assess underreporting, similar to other methodologies researchers have investigated, including use of self-administered surveys (http://www.sciencedirect.com/science/article/pii/S2214109X13700743) and qualitative methodologies (http://www.sciencedirect.com/science/article/pii/S0304387816000122). In other cases, we may be able to leverage this method for a ‘light touch’ way to monitor potential backlash, increases or decreases in violence (http://www.care.org/sites/default/files/documents/CARE%20GBV%20M%26E%20Guidance_0.pdf) in multi-topic and non-sectoral evaluations, which would otherwise not endeavor to collect violence information. We encourage further experimentation and creativity to further understanding of how to best measure, respond to and program for reduction of violence.
Types of GBV violations covered by Articles 6.3 and 7.1

The first stage of incorporating GBV into an arms export assessment is to identify what types of GBV are recognized as violations under Article 6.3 or Article 7.1 of the ATT.

Article 6 obligations relate to all arms transfers, including exports, imports, transit and transhipment and brokering. Article 6.3 prohibits authorization of any transfer of items listed in Article 2.1, Article 3 or Article 4 if the State Party has knowledge at the time of authorization that the arms or items would be used in the commission of certain crimes. This relevantly includes when rape and sexual violence are committed as genocide, and when rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity are committed as a crime against humanity. In times of international armed conflict, it will include when rape or sexual violence is committed as an act of torture or inhuman treatment constituting a grave breach of the Geneva Conventions of 1949, or other war crimes committed in non-international armed conflicts, such as torture, and outrages upon personal dignity – in particular humiliating and degrading treatment.

If the exporting state is a Party to the Rome Statute it will also include GBV committed as a broader range of war crimes as defined under this treaty, which comprises serious violations of the laws and customs in international armed conflict including: rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other sexual violence (including torture or inhuman treatment mentioned above) constituting a grave breach of the Geneva Conventions (Art 8.2(b)(xxii) of the Rome Statute). In non-international armed conflicts, this includes sexual violence committed as torture, outrages upon personal dignity – in particular humiliating and degrading treatment – and other serious violations of laws and customs in non-international armed conflict relevantly including rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence (Art 8.2(e) of the Rome Statute).

If a transfer is not prohibited under Article 6, Article 7.1 requires the exporting State Party to assess the potential that the conventional arms or items:

1. Would contribute to or undermine peace and security
2. Could be used to:
   a. Commit or facilitate a serious violation of international humanitarian law (IHL)
   b. Commit or facilitate a serious violation of international human rights law (IHRL)
   c. Commit or facilitate an act constituting an offence under international conventions or relating to terrorism to which the exporting state is a Party
   d. Commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting state is a Party.

Serious violations of IHL under Article 7.1(b)(ii) of the ATT are distinguishable from the war crimes mentioned in Article 6.3. As international crimes, war crimes are acts that individuals are criminally responsible for. However, serious violations of IHL may be committed by states and organized armed groups party to an armed conflict without requiring proof of individual responsibility for specific acts. Accordingly, acts of GBV constituting serious violations of IHL are as for war crimes listed above, but also include rape and slavery as serious violations of customary IHL.

GBV that constitutes serious IHRL violations include violations of jus cogens norms such as torture and slavery, as well as ‘gross violations’ such as enslavement, rape, and sexual violence of a comparable serious nature. Given the lack of consensus on what other IHRL violations may be sufficiently serious, determining whether other specific IHRL violations qualify as ‘serious’ so as to fall under Article 7.1(b)(iii) of the ATT should be determined both qualitatively and quantitatively by both the gravity of the violation (its character) and the manner of its commission (the extent of harm to victims, which need not be systematic or widespread). Under the EU Council’s ‘User’s Guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment’, even if an IHRL violation is not systematic or widespread it may still be considered serious if a competent body of the UN, the EU or the Council of Europe has established its occurrence. For the purposes of the ATT, serious IHRL violations under Article 7(b)(iii) are also committed by individuals and by civilian or military authorities responsible for an institutional failure to deal with violations under their command.
GBV offences under international conventions or protocols relating to terrorism under Article 7(b)(iii) include actions that target individuals on the basis of gender or inflict gender-based harm. There are two particularly relevant international instruments. For example, the 1979 International Convention against the Taking of Hostages encompasses the threat to injure (which can include sexual violence, for instance) another person (who could be targeted on the basis of gender). The 1997 International Convention for the Suppression of Terrorist Bombings covers bombings targeting individuals on the basis of gender intended to cause serious bodily injury. The Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism is a third (regional) instrument, in which the definition of terrorism includes acts that ‘endanger the life, physical integrity or freedom of, or cause serious injury’ to individuals: thus GBV could be committed either through the injury inflicted or by targeting individuals on the basis of gender.

Under Article 7(b)(iv), GBV can also constitute an offence under international conventions or protocols relating to transnational organized crime. The most relevant convention is the UN Convention against Transnational Organized Crime (the Palermo Convention) in which “trafficking in persons” for the purpose of exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” Also relevant is the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the Palermo Protocol and requires States Parties to prevent and combat trafficking, as well as alleviate the factors that make women and children particularly vulnerable to trafficking.

Under Article 7.2 the exporting State Party is also to consider measures to mitigate the risk identified in Article 7.1, and Article 7.3 requires the export not be authorized if there is an overriding risk of any of the negative consequences in Article 7.1.

The sources identified in this case study are not exhaustive. They are indicative of the expert public-domain authorities that ATT States Parties should consult as part of their own comprehensive risk assessments, and to complement their own analytical, diplomatic and intelligence sources.

Incidence of and response to arms-related GBV in recipient state

The second stage of incorporating GBV into an export assessment involves identifying: which of the above types of GBV are prevalent in the recipient State; the State’s capacity to prevent and punish acts of GBV; and whether the arms and items to be transferred, their end use and the end user, are legitimate under the ATT. The table below lists criteria, indicators of criteria, and data sources for both prevalence of GBV and state capacity to respond to GBV and regulate arms distribution in a manner compliant with the ATT. A very important preliminary qualification is that because GBV is notoriously under-reported, statistics should be assumed to universally underestimate the incidence of GBV they attempt to measure. Relatedly, the absence of data regarding a particular form of GBV should not be assumed to reflect its non-commission, but rather inadequate data-collection.

The indicators are drawn from existing analysis produced by the International Committee of the Red Cross (ICRC) and Reaching Critical Will. Despite recent advances, there are still critical gaps in the collection, provision and analysis of (disaggregated) data on the extent and impact of GBV. Nevertheless, there is a wide range of credible sources that states should include as a minimum in any assessment of the risk of GBV, produced by the UN, regional institutions, states, civil society and academia. The sources identified in this case study are not exhaustive. They are indicative of the expert public-domain authorities that ATT States Parties should consult as part of their own comprehensive risk assessments, and to complement their own analytical, diplomatic and intelligence sources. This study informs and supports the ongoing work of Risk Watch, developed by Control Arms’ ATT Monitor as a tool to gather and synthesize the vast pool of public-domain data on ATT-related risks for key contexts of concern, including GBV.
# PREVALENCE OF GBV

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| Use of weapons to commit/threaten acts of torture or violence against specific groups, particularly based on gender-identity/sexual orientation | • Levels of intercommunal tensions in the recipient state  
• Reports of weapons used to commit/threaten acts of torture or violence against specific gender groups  
• Reports of hate speech or incitements to violence against specific gender groups | Reports of the UN Working Group on Children and Armed Conflict  
• A complete list of reports can be found here: https://www.un.org/sc/suborg/en/subsidiary/wgcaac/sgreports  
Human Rights Watch and Amnesty International  
National human rights groups reports, where available |
| Reports of the Committee Against Torture | • Committee Against Torture Annual Reports: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=1&DocTypeID=27  
Human Rights Watch, Amnesty International, national human rights groups | • Human Rights Watch reports on Torture: https://www.hrw.org/  
Early Warning Project  
Special Rapporteur on Torture, Inhuman or Degrading Treatment or Punishment | • Reports from the Special Rapporteur: http://ap.ohchr.org/documents/dpage_e.aspx?m-103 |
### PREVALENCE OF GBV

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<th>Criteria</th>
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<td></td>
<td>Special Rapporteur on Violence against Women</td>
<td><em>Reports from the Special Rapporteur: <a href="https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AnnualReports.aspx">https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/AnnualReports.aspx</a></em></td>
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<td>National criminal datasets, where available</td>
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<td>Existence of human trafficking networks, or of systematic modern slavery, including forced labour</td>
<td>• Rate of modern slavery within the recipient country</td>
<td>UNODC Human Trafficking Knowledge Portal</td>
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<td>US Trafficking in Persons Report</td>
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<td>Walk Free Foundation Human Slavery Index</td>
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<td>Strategic use or high levels of rape and sexual violence</td>
<td>• Reports of rape as a weapon of war (in armed conflict)</td>
<td>National human rights groups reports and data, where available</td>
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<td></td>
<td>• Levels of sexual violence in the recipient country</td>
<td>Human Rights Watch, Amnesty International, WILPF, ICRC reports</td>
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<td>• Reports of weapons being used to facilitate sexual violence</td>
<td>• Human Rights Watch reports on sexual violence and rape:</td>
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<td>• Amnesty International reports on sexual violence:</td>
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<td>• WILPF reports on sexual violence:</td>
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<td><a href="http://www.peacewomen.org/search?kw=sexual%20violence&amp;%E2%80%9D%E2%80%9D-peacewomen_consolidated_th%3A26&amp;%E2%80%9D-type%3Areport_policy_brief">http://www.peacewomen.org/search?kw=sexual%20violence&amp;%E2%80%9D%E2%80%9D-peacewomen_consolidated_th%3A26&amp;%E2%80%9D-type%3Areport_policy_brief</a></td>
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<td>• ICRC Reports on sexual violence:</td>
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<td>UN Women Global Knowledge Platform to End Violence against Women</td>
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<td>• UN Women (2018). ‘Global Database on Violence against Women’:</td>
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<td><a href="http://evaw-global-database.unwomen.org/en">http://evaw-global-database.unwomen.org/en</a></td>
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<td>• UN Women (2018). Virtual Knowledge Centre to End Violence Against Women and Girls:</td>
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<td><a href="http://www.endvawnow.org/">http://www.endvawnow.org/</a></td>
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## PREVALENCE OF GBV

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## STATE CAPACITY

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<td>Existence or risk of armed conflict within the recipient state</td>
<td>• Ongoing armed conflict within the recipient state</td>
<td>Uppsala Conflict Data Programme (UCDP)</td>
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<td></td>
<td>• High level of state fragility</td>
<td>• UCDP (2018). ‘Countries in Conflict Database’. <a href="http://ucdp.uu.se/">http://ucdp.uu.se/</a></td>
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<td></td>
<td>• Absence of effective rule of law</td>
<td>International Institute of Strategic Studies Armed Conflict Database (IISS)</td>
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<td>Heidelberg Institute for International Conflict (HIIK)</td>
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<td>World Bank list of Fragile and Conflict-Affected Situations</td>
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<td>Fund for Peace: State Fragilities Index</td>
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<td>World Governance Indicators: Political Stability and Absence of violence/terrorism index</td>
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<td>Existence of insecure communities within recipient state</td>
<td>• Number and/or insecure refugee settlements within the borders of a receiving country</td>
<td>UNHCR: Countries with refugee emergencies and situations</td>
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## State Capacity

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### STATE CAPACITY

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| Ability of the state to protect against diversion | • Evidence of preventative measures to mitigate the risk of diversion  
• Evidence of appropriate measures taken to detect diversion  
• Evidence of cooperation and exchange of information to mitigate the risk of diversion | Initial Reports submitted by ATT States Parties  
| Effectiveness of the state of developing laws that minimize violence perpetrated with illicit arms | • Evidence of national legislation prohibiting or penalizing illicit firearm possession  
• Evidence of national programmes to reduce the number of illicit firearms in circulation | Gunpolicy.org (International firearm injury prevention and policy) data  
National monitoring groups reports and data, where available |

### Arms or items under Article 2.1, 3 or 4 at risk of being used to commit or facilitate the relevant acts of GBV

The third stage of the export assessment requires determining whether and how the arms or items to be authorized would be used by the recipient to commit GBV committed as a violation under Article 6.3 or could be used by the recipient to commit or facilitate GBV as a violation under Article 7.1. This terminology requires the exporting state to predict the likelihood of violations under Articles 6.3 and 7.1 will occur, which in turn will depend on past behaviour and evidence indicating likely future behaviour based on the types of data sources appearing in the table above. For Article 6.3 violations, this does not require proving that they would be perpetrated should the transfer be authorised, but rather that ‘there is sufficient information, or reasonable grounds, or a reasonable basis for believing the arms would be used for that purpose’. Article 7.4 is not a balancing exercise but a process that requires a transfer be denied if an overriding risk of any one of the negative consequences listed in Article 7.1 could occur. This assessment occurs after assessing the potential under Article 7(a) that the arms or items to be transferred would contribute to or undermine peace and security – requiring a higher level of certainty than the term ‘could’ in Article 7(d). ‘Use’ is understood as the discharge of a firearm, the firing of a bullet, or the launching, firing, or dropping of another weapon, such as a rocket or bomb, and the term ‘facilitate’ means that the weapons may be one or more steps removed from the actual violation, may be ‘only an incidental factor in the commission of the primary act, and may have contributed only to a minor degree, if at all, to the injury suffered’. There are still varying interpretations and applications of the term ‘overriding risk’ that should be resolved through shared information contributing to converging risk assessments amongst State Parties. In the interim, the examples below, drawing on the types of GBV and SALW in the table seek to illustrate circumstances that indicate prima facie that the subject transfer may be prohibited or should be denied.
Indicators to measure violence against women

Expert Group Meeting

Organized by:
United Nations Division for the Advancement of Women
United Nations Economic Commission for Europe
United Nations Statistical Division

In collaboration with:
UN ECA
UN ECLAC
UN ESCAP
UN ESCWA

8 to 10 October 2007
Geneva, Switzerland

Report of the Expert Group Meeting
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I. INTRODUCTION: SCOPE OF THE MEETING

a. Background

On 19 December 2006, the General Assembly of the United Nations adopted without a vote a resolution entitled ‘Intensification of efforts to eliminate all forms of violence against women’ (A/RES/61/143). The resolution requested:

the Statistical Commission to develop and propose, in consultation with the Commission on the Status of Women, and building on the work of the Special Rapporteur on violence against women, its causes and consequences, a set of possible indicators on violence against women in order to assist States in assessing the scope, prevalence and incidence of violence against women.

This mandate provided by the General Assembly reinforces the increasing demand for indicators on violence against women. Widespread and consistent use of an agreed indicator, or set of indicators, would be an incentive for States to collect data on violence against women and monitor the extent of such violence in a more systematic way. Such efforts would contribute to strengthening the knowledge base on violence against women. Availability of knowledge about violence against women would result in better informed legislative and policy reforms and strategy development to address and eliminate violence against women. The Statistical Commission, in consultation with the Commission on the Status of Women, has the opportunity to support the collection of data and indicators that can be measured through official statistics on the scope, prevalence and incidence of violence against women. Such efforts would also enhance the role and contribution of national statistical offices in one crucial area of gender equality.

In order to support the work of the Statistical Commission and the Commission on the Status of Women, the United Nations Economic Commission for Europe (UN ECE), the United Nations Division for the Advancement of Women (UN DAW) and United Nations Statistics Division (UNSD), in collaboration with the Economic Commission for Africa (UNECA), the Economic and Social Commission for Latin America and the Caribbean (UN ECLAC), the Economic and Social Commission for Asia and the Pacific (UN ESCAP), and the Economic and Social Commission for Western Asia (UN ESCWA), convened a meeting of experts in Geneva, from 8 to 10 October 2007. The meeting was hosted by the Conference of European Statisticians’ Task Force on Violence against Women.

The main objectives of the meeting were to:

• Take stock of existing major national, regional and international initiatives aimed at developing indicators on violence against women;
• Assess advantages and disadvantages of various indicator proposals;
• Develop criteria for the identification of a possible set of indicators on violence against women;
• Summarize options, and put forward recommendations for a possible set of indicators to support countries to measure the scope, prevalence and incidence of violence against women;
• Outline related data collection requirements and constraints, as well as opportunities for overcoming these, taking into consideration users’ needs;
• Consider the types of violence that should be covered in a possible set of indicators and propose an approach for defining a technical description of each possible indicator.

The meeting brought together a broad range of experts, including representatives from national statistical offices, United Nations regional commissions, inter-governmental organizations, academia and non-governmental organizations (see Annex I for the list of participants).

The meeting was chaired by Ms Angela Me, Chief, Social and Demographic Statistics Section, Statistical Division, UN ECE. The rapporteur of the meeting was Professor Sylvia Walby, Lancaster University, UK.


b. Introduction to indicators

Indicators summarize complex data into a form that is meaningful for policy makers and the public. Indicators provide a simple summary of a complex picture, abstracting and presenting in a clear manner the most important features needed to support informed decision-making. They are selected to specifically address one issue or question, and can be expressed as rates, percentages, ratios or numbers.

Indicators are part of the knowledge base needed to assist policy and decision-making. They help to raise awareness of an issue. Indicators, with their associated benchmarks, contribute to the monitoring of progress in achieving goals, and in policy evaluation. They enable an evidence-based comparison of trends over time, and within and between countries. Indicators on violence against women may also support the assessment of States’ exercise of their due diligence obligation to prevent and address violence against women, and the effectiveness of related policies and other measures.

Two main types of indicators on violence against women are being developed: indicators that measure the extent of the phenomenon; and indicators that measure States’ responses to the problem. The remit of this meeting is on indicators to measure the scope, prevalence and incidence of violence against women. An overview of initiatives to develop indicators on violence against women presented and discussed at the meeting is set out below (see section III(c)).

Indicators to measure States’ responses, including changes in policy, are being developed elsewhere. In particular, the United Nations Special Rapporteur on violence against women, its causes and consequences is working on a set of indicators, including measuring State responses to combat violence against women. The
National Violence Against Women Monitor Programme for Central and Eastern Europe, South Eastern Europe, the Caucasus, Central Asia and Mongolia, launched by the Open Society Institute’s Network Women’s Programme and Minnesota Advocates for Human Rights, is an example of an NGO initiative to measure State responses. This programme examines the following areas: States’ mechanisms, including coordinating bodies, budget and action plans; legislation; special protocols to deal with cases of violence against women; special units in law enforcement bodies; services; education and training; role of the media; awareness raising activities; research and surveys; statistics and data collection; and case law.

II. INDICATORS TO MEASURE VIOLENCE AGAINST WOMEN

a. Definition and forms of violence against women

Violence against women is one of the most systematic and prevalent human rights abuses in the world. It is directed against a woman because she is a woman or affects women disproportionately. Such gender-based violence against women is a form of discrimination and deeply rooted in power imbalances and structural relationships of inequality between women and men. Violence against women is a global phenomenon, occurring in every continent, country and culture. It harms families, impoverishes communities and reinforces other forms of inequality and violence throughout societies.

A focus on the collection of data on violence against women remains essential: intergovernmental bodies, including the General Assembly, have on many occasions reiterated this need and have mandated work on this issue. Violence against women is a concern which is still hidden and not well recognized in many countries, and policy makers consistently request more and better quality information, including data, on this phenomenon: to guide legislative and policy reforms; to ensure adequate provision of targeted and effective services; to monitor trends and progress in addressing and eliminating violence against women; to assess the impact of measures taken. Accurate and comprehensive data are crucial for increasing societal awareness of violence against women and its unacceptability, and for enhancing the accountability of States to act against such violence.

As noted in the Secretary-General’s in-depth study on all forms of violence against women (A/61/122/Add.1 and Corr.1), violence against women is understood to mean “any act of gender-based violence that is directed against a woman because she is a woman or that affects women disproportionately”. As discussed in the study, women are subjected to violence in a wide range of settings, including the family, the community, State custody and armed conflict. The Secretary-General’s study addresses, inter alia, the following forms of violence against women: intimate partner violence; harmful traditional practices, including female genital mutilation/cutting, female infanticide and prenatal sex selection, early marriage, forced marriage, dowry-related violence, crimes against women committed in the name of “honour”, maltreatment of widows; femicide; sexual violence by non-partners; sexual harassment and violence in the workplace and elsewhere, and trafficking in women. These aspects are relevant in data collection efforts.
While violence against men is also an important issue requiring attention, this violence takes different forms and is not rooted in power imbalances and structural relationships of inequality between women and men. Thus, the broader issue of interpersonal violence, which has male and female victims, who may also be vulnerable by way of age, disability or social exclusion, requires a separate approach and different methodology to measure it.

b. International, regional and national legal frameworks

International, regional and national legal frameworks are critical to addressing violence against women.

It is well established under international law that violence against women is a form of discrimination against women and a violation of human rights. States’ obligations to respect, protect, fulfill and promote human rights include the responsibility to act with due diligence to prevent, investigate and punish all forms of violence against women and provide effective remedies to victims. Accurate and comprehensive data and other documentation are crucial in monitoring and enhancing State accountability for acting against violence against women and for devising effective responses. Therefore, ensuring adequate data collection is part of every State’s obligation to address violence against women. This must include efforts to collect data systematically on the most common forms of violence, as well as to strengthen data collection and knowledge on forms of violence that may affect relatively few women and on new and emerging forms of violence. In addition, the requirement to enact, implement and monitor legislation covering all forms of violence against women is set out in international and regional instruments and jurisprudence.

At the international level, human rights treaties\(^1\) set out a series of rights that are critical in the protection of women from violence. The treaty bodies established to monitor implementation of the human rights treaties, and in particular the Committee on the Elimination of Discrimination against Women, have addressed States’ obligations to prevent, investigate and punish all forms of violence against women and address the structural causes of violence against women in general recommendations, concluding observations/comments and work under individual complaints and inquiry procedures. In addition, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and provisions of the Rome Statute of the International Criminal Court address specific forms of violence against women.

The international treaties outlined above are complemented by policy instruments that provide detailed guidance for action to address violence against women, including declarations and resolutions adopted by United Nations bodies and documents emanating from United Nations conferences and summit meetings. Moreover, the ad

\(^1\) These include the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
hoc international criminal tribunals have set important precedents on the applicability of international law to State and individual responsibility for violence against women.

At the regional level, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women is directed solely at eliminating violence against women and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa addresses violence against women within many of its provisions. In South Asia, States have agreed to the South Asian Association for Regional Cooperation Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution and the Dhaka Declaration for Eliminating Violence against Women in South Asia. The Council of Europe Committee of Ministers has adopted Recommendation Rec (2002)5 on the protection of women against violence. Cases heard by the European Court of Human Rights and the Inter-American Commission on Human Rights have directed States to create appropriate criminal legislation; to review and revise existing laws and policies; and to monitor the manner in which legislation is enforced.

At the national level, a growing number of States have enacted laws addressing specific forms of violence against women, including domestic violence (which may, or may not cover marital rape), sexual offences, sexual harassment, trafficking and female genital mutilation. States have also enacted comprehensive laws specific to violence against women that provide multiple remedies. Specialized courts and mechanisms to ensure application of such laws, as well as to monitor and evaluate their effective application have also been put in place.

c. Building indicators

Data collection on violence against women and availability of data varies between and within States. Some States rely on administrative statistics, while others implement population-based surveys to collect information on violence against women, which provide a much wider spectrum of available data. Some forms of violence against women are currently difficult to measure accurately and robustly in quantitative form.

Given this range of national conditions, a step-by-step approach to the development and use of common indicators at the international level is considered to be the best way to proceed. At the present time, priority in proposing and selecting indicators should be guided by considerations of availability of data sources, as well as feasibility and sustainability in terms of data collection. Indicator use should not overburden States while at the same time also be an incentive towards more systematic and accelerated data collection.

The development of indicators on the scope, prevalence and incidence of violence against women, supported by robust quantitative data, is part of a wider agenda to strengthen policy development and action to address all forms and manifestations of violence against women, including prevention of violence. Such indicators should be accompanied by capacity building and institutional development, focused in particular on the national statistical offices and other data collection systems (e.g. in the area of health) and their role in the collection of data on violence against women.
Data collection work must be accompanied by an ongoing, comprehensive and multi-dimen-
sional research agenda on the different forms and manifestations of violence against women, including on the consequences of such violence, and methodology development.

d. The role of national statistical systems and official statistics

National statistical systems play a crucial role in providing and improving data to measure the scope, prevalence and incidence of violence against women. They can develop and maintain a sustainable statistical system able to produce and disseminate regularly proper data on violence against women. In addition to compiling and disseminating data from administrative sources, national statistical systems can also be involved with population-based surveys aimed at collecting more in-depth information on violence against women.

Survey statistics are important for assessing the magnitude of the problem since many women do not report violence to any agency. Whilst survey-based statistics also suffer from a certain degree of under-reporting, in general, they are considered to offer a reasonably reliable outcome measure on violence against women. Population-based surveys on violence against women have a relatively recent history and they are very important in advancing knowledge and research in this field. While in many instances resources for their implementation may have been provided by a public entity, many of them have been carried out by academic, or NGO, research teams with limited involvement of national statistics offices (NSOs).

The involvement of national statistical systems with violence against women surveys can be seen as important, including as an indication of a State’s political will to measure the magnitude, and different forms of violence against women. The involvement of the national statistics office adds to the credibility and quality of the studies as NSOs are perceived to be independent and competent in all aspects of the conduct of sample surveys. It also assures that data are collected according to the UN Principles of Official Statistics which include equal dissemination to all users, and confidentiality.

Since the mid-1990s, national surveys on violence against women have been carried out by a number of national statistical institutes. In the region covered by the Conference of European Statisticians, for example, out of the 25 national surveys carried out to measure violence against women in the last five years, more than half were conducted by national statistical institutes or other government institutions included in the national statistical system. Some of these were dedicated violence against women surveys, while others were existing surveys (mainly victimization or health surveys) which included a module on violence against women or gender-based violence².

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III. MEASUREMENT OF DIFFERENT FORMS OF VIOLENCE AGAINST WOMEN

a. Review of available data sources

There are two main forms of data sources on violence against women: administrative and criminal statistics; and surveys.

**Administrative and criminal statistics**

Administrative data on violence against women is sometimes collected by the agencies that provide relevant services, including in the areas of health, criminal and civil justice, public housing, social services, refuges, advocacy and other support.

The extent of violent crime reported to the police or where criminal convictions are obtained are sometimes used as indicators of violent crime. However, there are disadvantages associated with this approach to measuring violence against women. First, in many countries data on violent crime does not include the sex of the perpetrator and the victim. An exception to this, in some countries, may include rape and certain laws on violence against women. Second, there is the significant problem of under-reporting by women who are victims of violence, particularly from intimate partners or other family members. Such data are therefore unsuitable for the measurement of the scope, prevalence and incidence of violence against women.

Homicide is different from most crimes in that in most instances it comes to the attention of the police and is recorded. However, many countries still do not report regularly on deaths, and especially not on cause of death. Yet, police and crime statistics are often the only possible source of information on the number of deaths of women from violence. Even where the sex of the victim is reported, the relationship to the victim is rarely reported, making it difficult to analyse whether the death of the woman is the result of, for example, intimate partner violence or rape-murder, as opposed to, for example, robbery-homicide.

**Surveys**

When conducted properly, population-based surveys that collect information from representative samples are the most reliable method for collecting information on the extent of violence against women in a general population. Survey results may be generalized to the overall population from which the sample was selected. They provide more reliable information on the actual occurrence of violence against women, rather than on the extent of reporting of this violence to the authorities (although some level of under-reporting is still likely and this is affected significantly by the way the survey is carried out). This makes them particularly useful for measuring the extent of the violence and for monitoring trends over time.

In the last decade, two major approaches in survey methodology have been used. One approach is the dedicated survey that is surveys that are primarily designed to gather detailed information on the extent of different forms of violence against women. Another approach is to add a special module on violence against women, to an on-going survey on a wider topic, such as victimization or health.
There are many national surveys that report a range of statistics on violence against women (see A/61/122/Add.1, and Corr 1 for an overview of dedicated surveys). There are also on-going efforts of international organizations and institutes to support the implementation of internationally comparative surveys dedicated to violence against women using standard survey methodology. Important examples of multi-country efforts of dedicated surveys are: (1) the International Violence against Women Surveys (IVAWS), coordinated by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), with inputs from the United Nations Office on Drugs and Crime (UNODC), Statistics Canada, and the United Nations Interregional Crime and Justice Research Institute (UNICRI); and (2) the WHO Multi-Country Study on Women’s Health and Domestic Violence against Women and Women’s Health (see A/61/122/Add.1 and Corr. 1).

Increasingly, questions on violence against women are added into large-scale population-based surveys primarily designed for broader, but related purposes, including by using special modules. For example, the Demographic and Health Surveys (DHS), supported by MACRO International, conducted in many countries, have in some countries included modules on domestic violence and on female genital mutilation/cutting.

The dedicated violence against women surveys tend to gather more information about different types of violence and perpetrators, as well as information on circumstances, risk and protective factors and consequences of violence. They are the best source for comprehensive data on violence against women. A disadvantage to these studies is that they tend to be costly, and difficult for countries to repeat on a regular basis.

Surveys designed primarily for other purposes can play an important role in documenting the extent of violence against women, particularly when resources are scarce for conducting dedicated surveys. A major disadvantage of embedding violence against women modules in a general survey designed for other purposes is that the breadth of information generated on violence against women is more limited than the information generated by dedicated studies. There is also a greater risk of under-reporting violence. If ad hoc modules are to be appended to ongoing surveys, careful consideration needs to be given to the following issues:

- The possibility of adding a full instrument to the existing survey and not only a limited number of questions;
- The appropriateness of the topic of the ongoing survey (for example health, victimization, quality of life);
- Ensuring that the safety of women is not compromised.

Surveys also provide the opportunity to include questions on the sex of the perpetrator, and the relationship of the victim and perpetrator.

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4 Authors: Claudia Garcia-Moreno, Henrica A.F.M Jansen, Mary Ellsberg, Lori Heise, Charlotte Watts
5 Reproductive Health Surveys (sponsored by the Centers for Disease Control and Prevention - CDC) have also included few questions on violence against women, however, these questions are too few to provide a comprehensive picture of the total prevalence of women who experienced the major forms of violence against women.
On publication, some surveys highlight a limited number of statistics. Although these ‘survey highlights’ are rarely called indicators, they are intended to be indicative of the more complex and detailed data in the survey. A report of the United Nations Economic Commission for Europe Task Force on Measurement of Violence Against Women (2006) provides information on survey methods and the use of indicators in 25 questionnaires used in 17 countries6.

b. Challenges associated with data collection for different forms of violence against women

Different forms of violence against women pose different challenges for data collection. While intimate partner violence is one of the more widely documented forms of violence against women, the focus also in this form has been on documenting physical and more recently sexual violence, while more work is still needed to document emotional abuse. Not all forms of violence against women have robust data sources. Less well documented are forms of violence that are less common or occur primarily in specific populations or age groups, such as certain harmful practices or violence against women in armed conflict. Large scale national surveys that are conducted only in the dominant national language tend to omit certain population groups, such as immigrant/refugee women, or women in detention. The methodology for measuring such forms of violence, or reaching certain population groups, still needs further development.

c. Overview of current initiatives to develop indicators

A number of policy-oriented governmental and non-governmental bodies, as well as international and regional organizations have put forward proposals for indicators on violence against women. Efforts are also under way to build capacity for measuring gender equality. What follows is a summary of initiatives presented at the expert group meeting to define and disseminate indicators at regional, international and national level. This is followed by a summary of other initiatives to develop indicators to which attention was drawn at the meeting.

Initiatives presented at the expert group meeting

*Economic Commission for Africa*

ECA has not proposed any specific indicators on violence against women.

The ECA assists African Governments to improve gender-sensitive policy formulation and to monitor progress towards gender equality and empowerment of women through sex disaggregated data. Towards this end, ECA implements a project with several components, including: ensure that the principles and recommendations of population and housing censuses are gender-sensitive; elaboration of an African Gender Development Index; organization of workshops, including on ways of generating sex disaggregated statistics and integrating a gender perspective in national censuses; and creating a gender statistics network and website.

*Economic Commission for Europe*

6 See fn 2, above.
ECE’s work on the measurement of violence against women focuses on the improvement of survey methodology and the development of common indicators and survey instruments for measuring violence against women. The work is undertaken by a Task Force that operates under the framework of the Conference of European Statisticians. In 2006, this Task Force finalized an inventory of surveys undertaken in the region to measure violence against women and prepared a comparative analysis of 25 National Surveys carried out by 17 Member countries. The analysis highlighted the differences and commonalities of the methodology used to measure violence against women. An analysis of the content of the surveys resulted in the following findings:

- about 90 per cent of the surveys collected data on the following forms of physical violence: pushed/grabbed/shoved, kicked/bit/hit, hit with something, choked, used or threatened with a gun or knife;
- about 90 per cent of the surveys collected detailed data on sexual violence;
- about 80 per cent of the surveys collected data on psychological abuse;
- about 80 per cent of the surveys were dedicated to violence against women, and 40 per cent of the modules included in victimization or health surveys included stalking.

As a result of the inventory and analysis, the Task Force identified a common basis from which it would be possible to develop standard methodology.

ECLAC has proposed measuring the following five aspects of violence against women:

- rate of violence;
- rate of physical violence;
- rate of psychological violence;
- rate of sexual violence;
- rate of unreported violence.

ECLAC also recommends disaggregating the data to obtain more differentiated indicators by selected characteristics: geographical area; poverty status of households; age of the woman; her activity status; her level of education; her pregnancy status; her racial and ethnic group; and her relationship with the aggressor.

Together with the above proposed indicators for measuring violence against women, ECLAC has implemented capacity building efforts in the field of gender equality statistics. Since 2001, ECLAC has dedicated much attention to the measurement of violence against women, starting with the publication of the study "Violence against women in couples: Latin America and the Caribbean. A proposal for measuring its incidence and trends", which contains the above indicators. The study draws on a number of national surveys of violence against women carried out in Latin American and Caribbean countries. It serves as a tool for measuring violence against women in intimate relationships, as well as the main characteristics of the phenomenon.

8 Available online at http://www.eclac.cl/publicaciones/xml/5/22695/lcl17441.pdf
ECLAC also covers violence against women in its “Technical assistance guide for the production and use of gender indicators”, and in its technical cooperation activities on gender indicators.

**Economic and Social Commission for Asia and the Pacific**

ESCAP has proposed/used indicators on violence against women, including indicators for monitoring progress in policies to address violence against women, as follows:

- prevalence of domestic violence;
- violent crimes against women;
- trafficking of women and girls;
- measures to prevent and eliminate violence against women, the causes and consequences of violence against women;
- elimination of trafficking in women and assistance for victims of violence due to prostitution and trafficking;
- ratification of the Convention on the Elimination of All Forms of Discrimination against Women;
- specific legislation on violence against women.

In 2003, ESCAP undertook a study, “Gender Indicators for Monitoring the Implementation of the Beijing Platform for Action in the Asia-Pacific Region”, which included the first two of the above-listed indicators on violence against women. On the occasion of the 10-year review of the implementation of the Beijing Platform for Action, ESCAP’s Statistical Division completed a study, “Gender Equality and Empowerment: A Statistical Profile of the ESCAP region”. The study noted the lack of reliable statistical information on violence against women because few countries had undertaken even limited surveys to measure physical violence against women. It noted that the main forms of data, from health and police department reports on domestic violence, varied and were limited to reported cases only, which under-reported the extent of violence. The study also assessed State responses to violence against women, using the third and fourth indicators listed above, and found most countries in the ESCAP region scored very low on these normative and legislative indicators. Other ESCAP initiatives include a study entitled “Promoting Gender Equality and Women’s Empowerment in the Asia-Pacific: Linking the Millennium Development Goals with the CEDAW and Beijing Indicators”, which uses the last three indicators on violence against women listed above.

**Economic and Social Commission for Western Asia**

ESCWA has proposed indicators on violence against women, including:

- the proportion of women who experienced sexual violence (rape and indecent abuse) that have lodged complaints during the calendar year, divided by the total number of females of all ages, times 100,000, by perpetrators;
- prevalence of domestic violence (proportion of women who have ever been victims of physical violence by a domestic partner);
- percentage of women subjected to female genital mutilation by age;
- number of honour crimes;
- percentage of female domestic workers who have experienced physical (or other) abuse or sexual harassment.

In cooperation with United Nations agencies in the region, ESCWA is implementing a project entitled: “Towards more gender-responsive MDG monitoring and reporting in
the Arab region”. Within this project a three-dimensional “G IS IN” Framework was developed which includes ‘Goal-specific gender priority Issues and corresponding gender-sensitive Indicators for the Arab region’. The Framework includes the above-listed gender-sensitive indicators on violence against women. The project also includes efforts to strengthen the capacity of national statistical offices to compile and measure gender-specific indicators.

As an output of the project, ESCWA intends to publish a booklet on “Gender in the MDGs: An Information Guide for Arab MDG Reports”, which will include lessons learned from previous monitoring and reporting processes. ESCWA strives to compile timely and relevant data within the proposed “G IS IN” Framework. Some countries in the region have developed indicators and collected data on domestic violence and female genital mutilation/cutting.

Council of Europe
The Council of Europe has used indicators for monitoring progress in policy on violence against women, including:

- whether police statistics systematically record the sex of the victim in regard to all criminal offences, the sex of the perpetrator and the relationship of perpetrator to victim;
- whether there is systematic medical data collection on contacts made with health care services due to violence inflicted to women;
- whether questions on violence against women are integrated in a regular national representative survey;
- whether a national representative survey focusing on the prevalence and effects of all forms of violence against women has been conducted.

The Council of Europe has in place a monitoring framework on the implementation of state policies on violence against women. This framework was established under Council of Europe Recommendation Rec(2002)5 on the protection of women against violence adopted by the Committee of Ministers in April 2002, which sets out a strategy to prevent violence against women and protect its victims, covering all forms of gender-based violence against women. As part of the follow-up, member states are asked to provide information on a range of topics, and the indicators listed above are used to monitor progress in relation to the implementation of the Recommendation. The first replies in 2005 and 2006 were reported in the publication, “Combating violence against women - Stocktaking study on the measures and actions taken in Council of Europe member states”. A more detailed analysis based on additional replies received by member states is contained in the publication “Protecting Women against Violence - Analytical study on the effective implementation of Recommendation Rec(2002)5 on the protection of women against violence.”

United Nations High Commissioner for Refugees
UNHCR has proposed the following indicator on sexual and gender-based violence against refugees, returnees and internally displaced persons:

- sexual and gender-based violence report rate, based on the number of incidents of sexual and gender-based violence in a population during a designated time period (month, year etc), expressed as a number of incidents per 10,000 persons during that time period.
In 2003, the United Nations High Commissioner for Refugees developed guidelines for prevention and response to sexual and gender-based violence (SGBV) against refugees, returnees and internally displaced persons. The guidelines contain a requirement for effective documentation of the extent and nature of such abuse. They present a set of definitions of different forms of SGBV, including sexual violence, physical violence, emotional and psychological violence, harmful traditional practices, and socio-economic violence, together with a set of reporting tools. The above-mentioned is a key indicator in this work.

**Ghana**
The Government of Ghana currently relies mainly on administrative records to assess the scope and prevalence of violence against women, using the following indicators:
- assault;
- rape;
- threats of violence;
- offensive conduct;
- defilement;
- abduction;
- indecent assault.

The Government of Ghana has carried out a number of initiatives on violence against women, including establishing a domestic violence victim support unit within the police service to prevent, protect, investigate and prosecute crimes against women and children; adopting legislation on domestic violence; setting up loan schemes to support women in small scale businesses in an effort to empower women and minimize their economic dependence on their male partners; conducting research on violence against women and including questions on attitudes towards domestic violence by women and men in Ghana’s Demographic and Health Survey in 2003 and Multiple Indicators Cluster Survey in 2006. However, the main indicators currently available in Ghana related to the scope and prevalence of violence against women are based on administrative records, and related indicators are listed above.

**Italy**
The Italian National Institute of Statistics (ISTAT) has developed indicators on violence against women, including:
- prevalence rate, expressed as women aged 16 to 70 who have suffered physical or sexual violence by men, by time period, type of authors and type of violence (*per 100 women with the same characteristics*);
- partner violence covering women between 16 and 70 years of age victims of physical or sexual violence by a partner, by perpetrator, by time/occurrence period, and typology of violence (*per 100 women with the same characteristics*);
- non-partner violence covering women between 16 and 70 years of age victims of physical or sexual violence by a non-partner, by type of violence, time period, and perpetrator (*per 100 women and per 100 victims with the same characteristics*);
- non-partner violence covering women between 16 and 70 years of age victims of physical or sexual violence by a non-partner, by time period, perpetrator, and type of violence (*per 100 victims of physical or sexual violence by the same perpetrator*).
In 2006, the Italian violence against women survey was carried out by the Italian National Institute of Statistics (ISTAT). Issues were defined according to specific characteristics of violence, as summarized above. The survey covered the nature of violence, the authors of violence, the occurrence period, the reference period, the intensity of violence, the severity, the consequences, the costs of violence, reporting of violence, and strategies to end violence.

Mexico

The Mexican National Institute of Statistics, Geography and Informatics has developed the following indicators on violence against women:

- prevalence by type of violence (physical, sexual, emotional, economic) throughout the lifetime;
- prevalence by type of relationship or environment, considering all types of violence, including violence during childhood, by members of families of origin;
- violence at school, throughout the lifetime;
- violence by current or previous spouse or partner, throughout the relationship
- violence against women by their current spouse or partner, during the prior year;
- violence against women by their former spouse or partner, after they have been separated or divorced;
- violence against women by members of their current families, during the prior year;
- violence against women at work, during the prior year;
- violence by other persons throughout the lifetime, or community violence.

The Institute has carried out national surveys on violence against women, including its 2006 National Survey on the Dynamics of Relationships in Homes, using the above-listed indicators.

Republic of Korea

Republic of Korea has developed the following indicators on violence against women:

- type of violence according to subject; population sub-group; time period of victimization; frequency/duration; severity; perpetrator; and setting.

In 2004, the first national survey on domestic violence in the Republic of Korea was carried out, using the indicators listed above.

Other selected initiatives

In addition to these initiatives which were presented at the meeting, note was taken of a number of other efforts to develop and propose indicators on the scope, prevalence and incidence of violence against women. These include:

UN Millennium Project Task Force on Education and Gender Equality

The Task Force has proposed one indicator on violence against women:

- prevalence of domestic violence.
Goal 3 of the Millennium Development Goals is the promotion of gender equality and the empowerment of women. In order to ensure that Goal 3 is met by 2015, the UN Millennium Project Task Force on Education and Gender Equality identified seven strategic priorities, one of which is combating violence against girls and women. The Task Force proposed an indicator on the prevalence of domestic violence to track progress toward ending violence against women. The prevalence rate is expressed as a percentage of women ages 15-49 who report experiencing physical violence in the past year at the hands of an intimate partner.

**European Union**

The European Union has proposed several indicators on violence against women, including the following quantitative indicators:

- the number of female victims;
- the percentage of employees who report incidents of sexual harassment.

The Council of the European Union agreed in 1998 to develop a set of indicators and benchmarks in order to monitor the implementation of the 1995 Beijing Platform for Action, including violence against women. Since then several EU Presidencies, in association with the European Commission, Council and a High Level Group on gender mainstreaming, have made proposals for the development of indicators on violence against women. There have been several further declarations from the EU about the need to develop indicators on violence against women, including by the European Economic and Social Committee and the European Commission. There are three proposed indicators on domestic violence, one of which is the number of female victims. There are three proposed indicators on sexual harassment in the workplace, one of which is the percentage of employees who report incidents of sexual harassment.

**US Centers for Disease Control and Prevention, National Center for Injury Prevention and Control**

The Centers have proposed the following indicators:

- number of people (and their characteristics) affected by intimate partner violence;
- number and type of intimate partner violence episodes (and associated injuries and other consequences).

In a 2002 report on Sexual Violence Surveillance, published by the US Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, detailed uniform definitions of intimate partner violence are provided in order to promote consistency in the use of terminology and data collection. The report, which covers only intimate partner violence, recommends data collection on both prevalence and incidents, in accordance with the above-listed indicators.

**United Kingdom, Home Office**

The UK Home Office has developed two indicators on domestic violence:

- number of domestic homicides (data available annually from Criminal Statistics);
- ‘headline prevalence’ of domestic violence (supported with data from the annual British Crime Survey Inter-Personal Violence module).
In addition, the UK Home Office has also developed several policy indicators.

**Occupied Palestinian Territory**

The Palestinian Central Bureau of Statistics (PCBS) has developed the following indicators:

- percentage of ever married women and percent of all women 18+ who experienced violence at least once in life by type of violence (psychological, physical and sexual);
- percentage of ever married women who experienced violence in the last year by type of violence (psychological, physical and sexual).

The Palestinian Central Bureau of Statistics (PCBS) carried out a national survey on domestic violence against women in 2005. The target population included: ever-married women (15-64); unmarried women (18 years and above); children (ages 5 to 17); and older women (65 and above). The total sample size was 4,212 households.

**Analysis of indicator initiatives**

The indicator initiatives reviewed by the experts show that a broad range of indicators are currently used, or proposed at national level, and by regional and international organizations.

Indicators related to intimate partner violence are among the most commonly used in countries where survey data are available (either from specialized surveys or modules in on-going surveys). One widely used/proposed indicator is that of prevalence of physical and sexual violence, and in some cases also of emotional and economic violence. In some cases, particularly in national initiatives, efforts to develop more differentiated indicators are based on/refer to a significant number of disaggregations that aim at describing different perpetrators, types of violence, frequency, and time period when the violence occurred.

In countries where surveys are not yet commonly conducted, indicators on the scope and prevalence of violence against women are more limited and may cover only the violence that is reported to national authorities, especially law enforcement. However, indicators drawn from such administrative data do not give a full account of the violence women may experience, as such violence most of the time goes un-reported and remains under-recorded. At the same time, trends over time of reported and prosecuted cases can provide useful information about the processes that handle cases of violence against women, especially law enforcement and the judicial system. For example, rates of investigation, prosecution and conviction can show the extent to which the law enforcement and justice systems have engaged with violence against women. Increased reporting of acts of violence against women can suggest increased confidence in the justice system and decreased tolerance of violence against women.

The indicators used in the United Kingdom, for example, highlight domestic homicides as one important measure for violence against women. This indicator is used in other European countries, such as Spain, to monitor the most severe form of violence against women. An indicator based on the number of domestic homicides provides a measure of this particularly severe form, but it does not summarize the overall data, and it is not known how far it correlates reliably with the prevalence of...
domestic violence. Such an indicator may be robust and potentially easy to compare across countries. However, the perpetrator, or type of homicides are currently not identified in the crime statistics of most countries, making it difficult to separate intimate partner homicides from other types of homicides. It would therefore be essential for all countries to ensure that such data are collected, and/or the necessary disaggregation undertaken systematically.

d. Comparability of data and indicators between countries and over time

Existing indicators which have been developed by countries reflect national needs, and thus not all of them may be suitable for cross-country comparison. Moreover, the quality of indicators varies considerably between states, as countries are at different levels of development in terms of methodology and standards of data collection on violence against women. At the same time, comparisons over time within a country are likely to be more reliable, and therefore useful for policy making, than comparisons between countries. Comparisons over time within a country are an important and worthwhile goal of data collection as they show trends and support countries in evaluating the effectiveness and impact of domestic policies.

Progress is being made in developing standards against which indicators and data collection can be judged, both within countries and at the regional and international levels. These efforts should continue, including technical work on methodology, especially on types of violence that are more difficult to measure and on the measurement of incidence/incidents of violence. A focus on indicators can help in accelerating this process, and is therefore a positive contribution to strengthening the knowledge base on violence against women. States should therefore intensify their work on improving data collection and the availability of data on all forms of violence. They should also enhance the use of such data to better assess the effectiveness and impact of measures taken to address violence against women.

IV. AN INTERNATIONAL FRAMEWORK FOR INDICATORS ON VIOLENCE AGAINST WOMEN: A PROPOSAL

a. Issues arising in the development of indicators

A number of issues must be considered in the development of international indicators on violence against women, i.e indicators that are used globally, by all countries. These are summarized below.

General aspects
First, several general criteria apply in the selection of indicators, including that indicators should:

✓ Summarize complex data;
✓ Be unambiguous and easy to interpret;
✓ Enable an assessment as to whether an improvement or deterioration has occurred;
✓ Be meaningful and relevant to policy makers, service providers and the wider public;
Be capable of being supported by reliable and robust quantitative data;
Be neither so many as to confuse, nor so few as to mislead;
Be available at regular intervals and be comparable over time; and
Be comparable between countries and population groups.

Specific aspects
There are also a number of issues that are specific to the field of violence against women that need to be addressed in the collection of data, and its interpretation and use for indicators. In particular, it is necessary to ensure that the data used:

- Result in meaningful measurement of the prevalence and incidence of violence against women;
- Result in meaningful measurement of severity of the violence, especially in relation to its impact;
- Facilitate the mainstreaming of attention to violence against women into ongoing/routine data collection and policy development, while remaining responsive to the specific requirements of data collection and policy development in regard to violence against women; and
- Result in an accurate reflection of the pattern of violence against women as different from that against men.

Furthermore, since data collection efforts are costly and complex, indicators should as much as possible:

- Use available data;
- Provide consistency in the use of the time period covered, and include both a longer period and a more recent period; and
- Ensure consistent identification of the same population sub-set.

General versus specific indicators on violence against women
Indicators on violence against women could be:

- General indicators;
- Specific indicators.

International indicators could be based on only one or two general measures covering prevalence and incidence of all forms of violence. It would also be possible to opt for specific indicators related to different forms of violence. The meeting gave preference to the second option since indicators based on general measures, while avoiding the risk of focusing only on the most commonly measured forms of violence against women (such as domestic violence), would not be a sufficiently useful basis for policy or programme development. Furthermore, since the quality of measurement varies among different forms of violence against women, it would not be possible to combine these forms in a globally uniform way in one general indicator. In addition, there is great diversity among countries of the forms of violence considered and measured, and as a result, general indicators would not be comparable across countries.

Forms and manifestations of violence against women
Violence against women takes different forms and manifestations. When considering indicators for measuring the scope of violence, several options are available:

- A single indicator can be used that covers violence against women generally, without separately identifying forms of violence;
A single indicator can be used that covers violence against women generally, but includes some disaggregation in respect of different forms; A separate indicator can be used for each form of violence against women; A few indicators can be used, one each for the more common forms of violence against women; and A single indicator can be used, limited to domestic violence or intimate partner violence.

There is a tension between an approach that seeks to reflect in a separate indicator each specific type of violence against women and an approach that favours the use of a general category of ‘violence against women’. Experience shows that, the greater the number of indicators used, the larger the range of forms of violence against women that can be measured separately. A detailed assessment of specific forms of violence in separate indicators has the advantage of reflecting closely the experiences of the women affected. There is, however, the potential disadvantage that, depending on the form of violence measured or the level of disaggregation used, the information gathered is misused to stigmatize particular communities where certain forms of violence may be more prevalent. Methodological challenges may also arise in efforts to capture many different forms of violence against women in a general population-based survey, including those that affect particular population sub-groups, or are infrequently found within the overall population, as the potentially small numbers that would be reported to a survey might not be statistically reliable for reporting and analysis. When data is collected through surveys, larger sample sizes make it possible to capture a greater range of forms of violence against women.

As a long-term objective, all forms of violence against women should be measured. It is clear, however, that some forms of violence against women are more universally prevalent, while other forms may be more prevalent in some geographic regions than in others. In addition, methodological development, including survey methodology, is not yet far enough advanced to capture certain forms of violence, thus further impeding data collection and the development of indicators.

Prevalence and incidents
Prevalence and incidents are different ways of measuring extent. Prevalence refers to the proportion of the population that has experienced violence in a given period, usually either over a (adult) life-time or in the previous year. Incidents refers to the number of incidents of violence in a given population unit (for example x incidents per 100 or 1000 people) within a given time period. Attention needs to be paid to the difference between ‘incidence’ and ‘incidents’. ‘Incidence’ is a concept often used in the health field to refer to the number of new cases in a given time. ‘Incidents’ is a concept often used in the criminal justice field to refer to the number of crime incidents in a given population, in a given time period. The expert group meeting referred to the concept of ‘incidents’.

There are different understandings associated with prevalence and incidents of violence against women. There is no difference between them if each victim suffers just one incident in the given time period. However, if a victim is subject to repeated victimization, the rate of incidents in a given population unit will be significantly higher than the prevalence rate per a given population unit.
In measuring the extent of violence against women over a life-time (or adult life-time), the concept of prevalence is usually preferred to that of incidents, as it is unlikely that there would be accurate recall of each and every incident over such a long period. The number of incidents may, however, be measured with somewhat greater accuracy over a more recent time period (such as the previous year) and where this is possible, offer a profile of the extent of repeat or multiple victimization of women.

The meeting noted that the use of prevalence rates risks misrepresenting the different experience women and men have with violence. When the same questions about violence (particularly intimate partner violence) are asked in surveys, similar prevalence rates may be found for women and men. These results are often misinterpreted by suggesting that women and men have a similar experience with violence. In reality, women’s experience with intimate partner violence is largely more devastating than men’s, in terms of repeated and multiple victimization and impact. Prevalence rates can only say that the number of women and men who experience violence may not be very different. It has been suggested that the gender-specific differences of repeated and multiple victimization and impact can be better measured by looking at the number of incidents, or the consequences of the violence.

The meeting concluded that the prevalence rates of different forms of violence should be at the core of measuring the extent of violence against women, especially since prevalence surveys commonly offer more than two (yes/no) alternatives (such as only once, occasionally, all the time; or once, 2-10 times, 11 – 50 times, more than 50 times). Since women do not recall the exact number of incidents, particularly when they are very frequent, the production of an exact count of incidents is subject to a high level of error, making the development of indicators based on the number of incidents per female population tenuous. Furthermore, countries use different procedures for reporting the number of incidents. Therefore, more general and intuitively understandable measures of frequency should be (see next section). At the same time, it is important to continue counting incidents where appropriate, e.g. in police reports, service utilization, etc. and to improve the accuracy of these records.

Severity and impact
In addition to prevalence/incidents, violence against women can be measured by its severity and impact, most commonly in categories such as: the nature of the action; the frequency of the action; and whether or not there is an injury, and if so its seriousness. Research on the concept of severity has focused on domestic violence, and in particular on physical domestic violence. A number of surveys have assessed the severity of actions, for example using the Conflict Tactics Scale (CTS), which lists in order a series of actions, each considered to be more severe than the previous one. Another approach to severity is by constructing an empirical instrument to measure such aspects as impact and frequency, as in the National Crime Council study in Ireland.

One category of severity is the frequency of the attack, in broad categories such as: one incident, more than one incident, repeatedly/ all the time. Here, the number of times that the same person is subject to violence is a measure of severity. Frequency

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is different from the number of incidents per population unit, and reflects the average number of incidents per person subject to the violence. The main advantage of the concept of frequency is that it is readily meaningful. The main disadvantage of using frequency is that this concept overlaps with that of the extent of violence against women if the number of incidents is used to measure extent.

Another category of severity is injury. Injury is a victim-focused measure of the severity of the impact of the violence. A further distinction may be made as to the severity/seriousness of the injury/injuries: many countries recognize in their law some distinction between more or less serious violent crimes. Advantages of using injury as an impact measure include: it is immediately meaningful; it avoids the problem of the differential gender-specific impact of the same action; and, unlike the use of the CTS, it facilitates linkages with a number of policy fields, especially those of criminal justice and health. The main disadvantage of using injury is that such data is less frequently collected than data on the nature of the action.

Other categories of severity and impact that can be measured include the consequences of violence, such as fear for one’s life, violence during pregnancy, impact on children witnessing violence.

**Time period**

Two main time periods have been used for measuring the extent of violence against women: over a life-time, and over a recent period. Life-time period may cover the entire life-time, or since adulthood. In the latter case, the age of adulthood needs to be specified, e.g. 15, 16, 18 years. Recent period may be cover: one year, within the last 12 months (last year), or a little longer, e.g. 3 or 5 years.

Life-time measures are important for establishing the extent of the problem, and for awareness-raising and advocacy purposes. This measure is particularly pertinent to those forms of violence against women that occur only once in a life-time, or are unlikely to occur more than once in a life-time. This measure has certain advantages for use in a survey, and in the early stages of development of data collection methodologies.

Most data collection in other policy fields is based on a one-year time period, and trends can more easily be monitored using prevalence in the last year. Where one-year prevalence is low, surveys may need to use larger sample sizes. Many countries have now conducted one-off prevalence surveys on violence against women using both the life-time and last year time periods (e.g. WHO, IVAWS, DHS, CDC surveys).

While crime victimization surveys collect data on an annual basis, they risk underestimating levels of violence against women without specialist questions or training of surveyors. The challenge is to develop methods to generate adequate data that has a one-year reference period, using realistically available resources. Most surveys, while not conducted annually, collect data covering the last year. This shorter period of recall can aid its accuracy, although there are other techniques available to reduce the ‘telescoping’ effect.

Given these considerations, indicators on violence against women should include a long period, i.e., life-time, as well as a short reference period, i.e., one year.
Population sub-groups
The consistent identification of the same population sub-group is important for purposes of comparability. To this end, a number of aspects need to be considered, and in particular age, and women’s status.

With respect to age, many surveys limit the survey population to adult women. Although the actual cut-off age may vary, it commonly ranges between 15 and 18 years. Many surveys also use an upper cut-off age. This may be women’s reproductive age of 49 (as is the case in most health surveys). This age bracket, however, does not capture the experience of violence among older women, nor can it assess generational shifts in prevalence. Thus, other surveys use 70 or 75 as the upper cut-off age. Other age-related criteria may also be used, depending on expectations of the survey.

With respect to women’s status, several considerations arise, especially in regard to women’s marital status. Possible variations include: adult women regardless of marital status; currently married or partnered women; ever married or partnered women. Most surveys interview women of a predetermined age group, but base their analysis of domestic violence/intimate partner violence on the sub-sample of women who are currently, or ever have been married or cohabiting. A further variation would include women in non-cohabiting intimate relationships. When measuring violence against women outside as well as inside marriage and cohabitation however, the total population of women needs to be included in the denominator.

International indicators
Indicators on violence against women need to reflect, and resolve all of the above-listed issues. In order for an indicator to be ‘international’, or ‘global’, it must (or potentially) be used globally, by all countries. This requires that the indicator(s) is (are) comparable between all countries. In order to achieve comparability, the indicator(s) should not be so specialized or numerous as to prevent comparison between countries. Furthermore, it is necessary to agree on the form(s) of violence against women to be included in global indicator(s), and to have clarity and agreement on the definition of the form(s) and the components to be used in an indicator. For example, it would be necessary to clearly define the components of ‘domestic violence’ so as to ensure comparability across countries. If some aspects of this form are included in an indicator by some countries but not others, comparability would be affected. If an indicator on ‘sexual violence’ is selected without agreed definition and countries are free to choose those aspects they are most concerned with, comparability of results would likewise no longer be assured.

Given the complexities, international indicators should focus in the short term on more common forms of violence against women, for which data is more readily available at present. Such forms of violence against women would a priori seem to include physical violence, sexual violence, and intimate partner violence. These forms of violence are not mutually exclusive and for each of them further specializations could be measured. They are sufficiently common in all parts of the world to enable the development of robust and comparable ‘rates’. There is extensive experience in many countries in the collection of data on these types of violence and in the
development of indicators for them. At the same time, other forms of violence against women also need to be measured as much as possible.

b. Proposed international indicators

In proposing a set of international indicators, experts took into account the different levels of data collection, methodological development and availability of data on violence against women among States and the need to ensure international comparability. The focus is on the globally most common and widespread forms of violence against women for which data is readily available in many countries. These are: physical violence, sexual violence, intimate partner violence, and certain harmful practices, including female genital mutilation/cutting and early marriage. While some of these harmful practices may occur mainly in specific populations, they are spreading across regions due to migration.

These forms of violence against women do not adequately cover the full scope and extent of violence against women. Other forms of violence are equally widespread. At present, however, further research on such other forms of violence and methodological development in relation to data collection are required to achieve meaningful measurement. The core set of indicators identified below should therefore be seen as the nucleus for a broader set of internationally-used indicators on violence against women. Further work is required to progress towards this goal.

In accordance with the issues identified in the previous section, for each indicator a time period is proposed, as appropriate. In the case of physical violence, sexual violence and intimate partner violence, last year as well as life-time are proposed as time periods.

In the case of physical violence and sexual violence, a range of perpetrators are proposed. For intimate partner violence, perpetrators are restricted to current and former partners.

A measure of severity is also included in all prevalence indicators.

It is suggested that data to support the prevalence indicators be collected through dedicated population-based surveys. If such a large-scale survey is not feasible, the following are options: a special module added onto a general survey (health or victimization); or small local surveys as a first step.

The proposed indicators are set out below.

**Physical violence**

- The percentage of women (over the total number of women) who have experienced physical violence during the last year.

This indicator should be disaggregated further by severity (moderate/severe); perpetrator (intimate/other relative/other known person/stranger/state authority); and frequency (one/few/many time(s)).
✓ The percentage of women (over the total number of women) who have experienced physical violence during life-time.

This indicator should be disaggregated further by severity (moderate/severe); perpetrator (intimate/other relative/other known person/stranger/state authority); and frequency (one/few/many time(s)).

Sexual violence

✓ The percentage of women (over the total number of women) who have experienced rape/sexual assault during the last year.

This indicator should be disaggregated further by perpetrator (intimate/other relative/other known person/stranger/state authority); and frequency (one/few/many time(s)).

✓ The percentage of women (over the total number of women) who have experienced rape/sexual assault during life-time.

This indicator should be disaggregated further by perpetrator (intimate/other relative/other known person/stranger/state authority); and frequency (one/few/many time(s)).

Intimate partner violence

✓ The percentage of women (over the total number of women who have ever had an intimate partner) who have experienced physical or sexual violence by current or former partner during the last year.

This indicator should be disaggregated further by frequency (one/few/many time(s)).

✓ The percentage of women (over the total number of women who have ever had an intimate partner) who have experienced physical or sexual violence by current or former partner during lifetime.

This indicator should be disaggregated further by frequency (one/few/many time(s)).

Harmful practices ¹⁰

Female genital mutilation/cutting

✓ The percentage of women (over the total number of women) subjected to female genital mutilation/cutting.

¹⁰The proportion of women who are subjected to FGM can be measured through population-based surveys only in countries where the number of women subjected to FGM is not too small. If the numbers are too small, sample surveys are not the proper tools and other methods should be used. Data from national censuses could also be used for the indicators on early marriage.
This indicator should be disaggregated further by age.

Early marriage

✓ The percentage of women (over the total number of women) whose age at marriage is below 18 years

c. Required future work to expand the set of indicators

As a long-term objective, all forms of violence against women should be measured. In order to achieve this, there is an urgent need for further work on methodologies of data collection and indicator development in relation to different forms of violence against women. Priority should be given to the following forms of violence against women:

- Killing of women by intimate partners;
- Female infanticide;
- Threats of violence;
- Economic and emotional/psychological violence as part of intimate partner violence;
- Crimes committed against women in the name of “honour”;
- Conflict/crisis-related violence against women;
- Dowry-related violence;
- Sexual exploitation;
- Trafficking;
- Femicide;
- Forced marriage;
- Sexual harassment.

Some of these forms are difficult to measure in official statistics, such as trafficking and forced marriage. Other forms, such as psychological violence, may be difficult to measure in a cross-country comparable way as differing understandings may be associated with such violence across countries/cultures. Still other forms, such as dowry-related violence and crimes committed against women in the name of “honour”, may occur in specific populations, and may be difficult to capture in representative sample surveys. The killing of a woman by an intimate partner and femicide cannot be captured in a crime victimization survey, and other methods need to be considered, for example the development of administrative, criminal and health statistics. Violence against women in mobile populations, including violence against women in conflict/crisis areas and trafficking, cannot be captured through household surveys, and other forms of data collection need to be developed.

There is a also a need for further methodological development in regard to violence against women surveys so as to agree on common operational definitions and ensure reliable wording of questions. These efforts will also further enhance comparability of survey results between countries.
V. CONCLUSIONS AND RECOMMENDATIONS - A COURSE OF ACTION FOR DIFFERENT STAKEHOLDERS

The development of international indicators on the scope, prevalence and incidence of violence against women contributes to addressing the urgent need to strengthen the knowledge base on violence against women. Such indicators provide an incentive for States to collect data on violence against women and monitor the extent of such violence, and trends over time. Availability of such data contributes to increased awareness of violence against women, and enhances the capacity of States to evaluate legislative and policy reforms and take action to address and eliminate violence against women.

As a long-term objective, all forms of violence against women should be measured. Taking into account the different levels of capacity for data collection on violence against women, data availability and development of indicators, the recommended way forward is a step-by-step approach to the development of international indicators. International indicators should thus focus at present on the most common forms of violence against women for which sources of data are more readily available. Further research and methodological development in relation to data collection and indicators is needed in order to extend the set of indicators. Such efforts need to be undertaken systematically, and without delay.

The expert group meeting makes the following recommendations, addressed to different stakeholders, in relation to international indicators and data collection on violence against women.

a. Global level: Intergovernmental bodies/international organizations/United Nations system

- The Statistical Commission, in consultation with the Commission on the Status of Women, should agree on the following set of indicators as the first step in the development of a comprehensive set of international indicators on all forms and manifestations of violence against women.

Physical violence

- The percentage of women (over the total number of women) who have experienced physical violence during the last year.

This indicator should be disaggregated further by severity (moderate/severe); perpetrator (intimate/other relative/other known person/stranger/state authority); and frequency (one/few/many time(s)).

- The percentage of women (over the total number of women) who have experienced physical violence during life-time.

This indicator should be disaggregated further by severity (moderate/severe); perpetrator (intimate/other relative/other known person/stranger/state authority); and frequency (one/few/many time(s)).
Sexual violence

✓ The percentage of women (over the total number of women) who have experienced rape/sexual assault during the last year.

This indicator should be disaggregated further by perpetrator (intimate/other relative/other known person/stranger/state authority); and frequency (one/few/many time(s)).

✓ The percentage of women (over the total number of women) who have experienced rape/sexual assault during life-time.

This indicator should be disaggregated further by perpetrator (intimate/other relative/other known person/stranger/state authority); and frequency (one/few/many time(s)).

Intimate partner violence

✓ The percentage of women (over the total number of women who have ever had an intimate partner) who have experienced physical or sexual violence by current or former partner during the last year.

This indicator should be disaggregated further by frequency (one/few/many time(s)).

✓ The percentage of women (over the total number of women who have ever had an intimate partner) who have experienced physical or sexual violence by current or former partner during lifetime.

This indicator should be disaggregated further by frequency (one/few/many time(s)).

Harmful practices

Female genital mutilation/cutting

✓ The percentage of women (over the total number of women) subjected to female genital mutilation/cutting.

This indicator should be disaggregated further by age.

Early marriage

✓ The percentage of women (over the total number of women) whose age at marriage is below 18 years.

• The Statistical Commission should request Member States to collect data to support these indicators through dedicated, nationally representative population-based sample surveys. If a dedicated survey cannot be undertaken in the short term, States should consider adding a special module to an
ongoing survey on a related topic (such as a demographic and health, or crime victimization survey) or other general survey. States should also consider conducting small local surveys as a first step. Efforts should also be made to strengthen and improve the collection of administrative data, such as health, police, judicial and social services data. Data from national censuses could also be used for the indicator on early marriage.

- The Statistical Commission should request that by 2015, all Member States regularly collect, disseminate and analyze data for all of the above-proposed indicators.

- The United Nations system should provide technical support to countries, focusing in particular on strengthening the capacity of national statistical offices and systems, to assist them in the collection of data on violence against women, including the data necessary to support the proposed indicators.

- United Nations entities and intergovernmental bodies, within their respective areas of competence, should take note of these international indicators, encourage Member States to collect data to support the indicators, and request Member States to report the results of such data collection and the action taken in response thereto.

- United Nations entities, together with the donor community, should continue to support the inclusion of sound modules on violence against women in international surveys, such as the DHS, and explore the use of other international surveys, such as the Multiple Indicator Cluster Surveys (MICS), to measure the scope and prevalence of violence against women.

- The United Nations system should provide technical support to countries and promote existing methodologies and good practices to ensure that existing standards of excellence on data collection are met.

- The United Nations system should support the development of unified methods and standards for data collection on all forms of violence against women that are under-documented. It should also support further collaborative work in refining the proposed list of indicators and advancing research toward the development of international indicators in the areas listed in section IV(c) of this report.

b. Regional organizations

- Regional organizations should take note of the international indicators and encourage their Member States to use them in their data collection efforts on violence against women.

- Regional organizations should develop a regionally-relevant set of additional indicators and assist in strengthening national statistical offices and systems.

c. Member States
• Member States should be guided by the above set of international indicators in their data collection efforts on violence against women.

• Member States should collect data to support these indicators through dedicated population-based surveys. Population-based surveys should have an adequate sample size in order to provide representative data on all the proposed disaggregations of the indicators listed above. If a large-scale survey is not presently feasible, States should add a special module to an ongoing survey (such as a demographic and health, or crime victimization survey), or consider conducting small local surveys as a first step. Efforts should be made also to strengthen and improve the collection of administrative data, such as health, police, judicial and social services data. Efforts should also be made to further disaggregate law enforcement and criminal justice data so as to increase their usefulness for tracking trends in violence against women. States should also enhance the use of data from national censuses, as applicable.

• By 2015, all Member States should regularly collect, disseminate and analyze data for all of the above-proposed indicators.

• Member States should strengthen the capacity of national statistical offices and systems to collect data on violence against women, including the necessary data to support the above-proposed indicators.

• Member States should enhance national statistical and research capacity for collection of data through both specialized surveys and routine data collection.

• Member States should ensure that national machineries for the advancement of women and relevant ministries, such as justice and health, are closely associated with the collection of data on violence against women. These ministries have an important role to play in ensuring consistency of concepts, responsiveness to users’ needs and relevance for policy and programme development, contributing to ensuring regular frequency of data collection and ensuring that data are widely disseminated in a timely fashion.

• Member States should ensure multi-sectoral coordination of the development, implementation, monitoring and evaluation of data collection initiatives.

• Member States should link efforts to collect data on violence against women to support the international indicators to existing and ongoing data collection efforts in the area of gender equality.

• Member States should link efforts to collect data on violence against women to existing and ongoing data collection efforts in other areas, including economic and social development, planning processes for poverty reduction strategies, and human rights monitoring.

• Member States should ensure that data is produced and disseminated disaggregated by sex, and by other factors, such as race, age and disability, as appropriate. Data should also be publicly accessible.
Member States should ensure that data on violence against women is collected in a way that respects confidentiality and women’s human rights and does not jeopardize women’s safety. All data collection on violence against women should be undertaken in accordance with the UN Fundamental Principles of Official Statistics and the WHO Ethical and Safety Guidelines for Researching Violence against Women.

d. Donor community

The donor community should provide resources to assist States in strengthening the capacity of national statistical offices and systems to collect data on violence against women. It should also continue and expand its support for other institutions, including academic, research and non-governmental institutions that collect data on violence against women and undertake methodology development, and encourage strengthened interactions with national statistical offices and systems.
Mitigating Measures

Summary:

This session will critically assess the potential efficacy and feasibility of different examples of mitigating measures, as well as discuss how measures sometimes simply cannot mitigate the risk of Article 7 harms.

Guiding questions:

- What might mitigating measures look like and how might they be implemented? Are they laws, policies, guidance documents, etc.? What might be the costs and benefits of each of these approaches?
- What could make a mitigating measure effective?
- Why might some mitigating measures be ineffective in certain contexts? Are there certain contexts where no measures could effectively mitigate the risks of a serious violation of IHL or IHRL?

Readings:

- Amnesty International, Applying the Arms Trade Treaty to Ensure the Protection of Human Rights, 2015 (extracts)
- Control Arms, How to use the Arms Trade Treaty to address Gender-Based Violence: A Practical Guide for Risk Assessment, 2018 (extracts)
APPLYING THE ARMS TRADE TREATY TO ENSURE THE PROTECTION OF HUMAN RIGHTS
Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.
STEP 2: MITIGATION MEASURES

Pursuant to Article 7(2), the exporting State Party must consider whether there are measures that could be undertaken to mitigate the risk of any serious violations of international human rights or humanitarian law, such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States.

Article 7(2) suggests confidence-building measures or jointly developed and agreed programmes by the exporting and importing States as possible measures.

Mitigation measures should have the aim of reducing the probability that identified risks would materialize. Mitigation measures can have a range of objectives depending on the nature of those risks including, for example, an increase in the level of accountability for the use of the weaponry and/or munitions, and an increase in the levels of compliance of the use of those items in a manner that is consistent with international human rights or humanitarian law.

Some mitigation measures that can assist in increasing accountability for the use of weaponry are:

- Enhancing the effectiveness of the systems in place for the use, storage and registration of weapons and ammunition by law enforcement officers, security forces and other security personal;
- Enhancing the record keeping procedures of whom is authorized to carry, and use the weapons;
- Assisting and providing resources and capacity to help establish effective systems to secure the many stockpiles of weapons, munitions and related equipment. Such systems should include adequate record-keeping, auditing of those records, safe and secure storage facilities in appropriate locations, and an adequate transport and storage security plan;
- Ensuring that all small arms and light weapons are uniquely marked in compliance with the International Tracing Instrument (2005).

Some mitigation measures that can assist in increasing the levels of compliance with international human rights law and IHL include:

- Examining to what extent the relevant international human rights and IHL standards have been effectively integrated in doctrines, policy, manuals, instructions and training. Any international provision of military, security and police training from foreign governments must ensure that it is consistent with international human rights standards on the use of force and firearms and with obligations under IHL.
Careful selection of relevant military, security and police personnel to undergo regular training and/or re-training programs, and also careful selection of training personnel and of relevant subjects for the curriculum.

Training and assistance must go beyond simply describing military, security and police forces obligations under international law; there should be adequate time for regular rigorous practical training exercises for all personnel which reflect operational reality, and emphasize best practices that respect international human rights and humanitarian law standards.

Robust monitoring of the conduct of those personnel who have received training should be followed up with continuous training to eradicate risks of mismanagement and misuse of weapons and munitions. All training should progressively cover all personnel responsible for handing arms.

Existing State practices also provide a number of examples of other possible mitigation measures:

- Requiring end use assurances on use and re-transfer;
- Requiring a valid import license as part of the export license application;
- In the case of small arms and light weapons, applying a “new for old” principle that as a condition of sale requires that the end-user destroys small arms that are to be replaced by the new consignment;46
- Requiring a delivery verification certificate verifying that the goods arrived at the customs territory of the recipient State and, in the case of sensitive equipment, on site inspection of the storage and management of the items.

**STEP 3: MAKING A DECISION: IS THERE AN OVERTYING RISK?**

Article 7(3) states that:

“If, after conducting this assessment and considering available mitigation measures, the exporting State Party determines that there is an overriding risk of any of the negative consequences in paragraph 1, (including serious violations of international human rights law and IHL?) the exporting State Party shall not authorise the export.”

The concept of risk being “overriding” is a novelty in multilateral treaties. The usage of the term in the ATT can be seen as an effort by States to capture the complexity of arms export decision making processes and the need for States to weigh the perceived benefit of tangible peace and security against the potential risks of an arms export resulting in significant harm (including serious violations of international human rights law and IHL).

**AT WHAT POINT DOES A RISK BECOME “OVERTYING”?**

Ultimately Article 7(3) requires a State Party to assess whether the export authorization under review will make a lawful contribution to peace and security. If this cannot be shown to be the case, and one or more of the identified potential negative consequences, including a serious violation of international human rights law or international humanitarian law, poses an “overriding” risk, then no authorization can be given.

The particular circumstances of the recipient State and the likely use of the arms and/or related items should be carefully considered. The analysis of “overriding risk” should be carried out by competent national authorities based on an objective and non-discriminatory consideration of all available evidence of the past and present circumstances in the recipient country regarding the proposed end-use and end-user.
Art.7 Export and Export Assessment
Stuart Casey-Maslen, Andrew Clapham, Gilles Giacca, Sarah Parker

From: The Arms Trade Treaty: A Commentary
Andrew Clapham, Stuart Casey-Maslen, Gilles Giacca, Sarah Parker

Subject(s):
Human rights remedies — Arms control — Weapons — Humanitarian intervention — International peace and security
The exporting State Party shall also consider whether there are measures that could be undertaken to mitigate risks identified in (a) or (b) in paragraph 1, such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States.

7.88 As part of their export assessment, having examined the criteria under Paragraph 1, national control authorities must consider whether appropriate measures could be undertaken to mitigate risks they identify that exported weapons might be used to violate international law. In so doing, states parties are free to decide whether they act and what they do. Numerous measures are theoretically available to them, though in practice the choices of an exporting state will often be constrained by its resources. Certain measures require co-operation between the exporting and importing state, which is reflected in the reference to confidence-building measures and jointly developed or agreed programmes. Since risk-mitigation measures may lead to a positive export assessment, they are usually in the interest of both exporting and importing states. However, they may be perceived by an importing state as interference in its domestic affairs.

7.89 Specific examples of risk-mitigation measures include: end user certificates that confirm that transferred items will not be re-exported without the agreement of the exporting state or used in a manner other than that described in the certificate; post-delivery and post-shipment verifications by the exporting state; capacity-building, for example to improve the physical security and stockpile management of exported arms; and training in human rights and IHL. These examples indicate the presence of two different approaches to risk mitigation. Some measures take the form of systematic due diligence (e.g. end user certificates), while others reduce a specific risk (capacity-building projects). With the latter, a challenge remains that considerable time will often elapse between an export assessment, the execution of mitigation measures, and their practical effects. When evaluating the legality of a proposed export, the impact of risk-mitigation measures must therefore be assessed cautiously.
How to use the Arms Trade Treaty to address Gender-Based Violence

A Practical Guide for Risk Assessment
Mitigating measures or other approaches to reduce the risks in Article 7.1

Given the prevalence of GBV and its mandatory incorporation into every export assessment pursuant to Article 7.4, measures that mitigate the risk of GBV violations under Article 7.1 are particularly important in breaking the link between GBV and the arms trade. In fact, the more specifically an exporting state identifies mitigating measures, the more likely they are to be effective. One method to achieve this is to examine a recipient State’s related obligations under other instruments.

An importing state’s commitments pursuant to other international instruments cannot be assumed to reflect compliance. However, such obligations do provide additional legal authority to an exporting state’s decision to deny authorization or require certain mitigation measures to reduce the risks identified in Article 7.1. For example, if shadow reports and recommendations made under the CEDAW reporting procedures indicate causes and remedies for types of arms-related GBV, these may include measures that would mitigate Article 7.1 risks. The table below includes some key relevant instruments, including human rights treaties that involve state reporting procedures.

**IDENTIFYING STATE COMMITMENTS**

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<thead>
<tr>
<th>Criteria</th>
<th>Indicator</th>
<th>Information sources</th>
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| Membership of key IHL instruments | • Membership of recipient state to Geneva Conventions and additional protocols  
• Membership of recipient state to the ICC (and other relevant regional courts) | ICRC IHL Database: Treaties, States Parties and Commentaries  
| Membership of key human rights agreements | • Membership of recipient state to CEDAW  
• Membership of recipient state to Convention on the Rights of the Child  
• Membership of recipient state to ICCPR  
• Membership of recipient state to Convention against torture  
• Membership of recipient state to relevant regional human rights instruments | OHCHR Status of Ratification Interactive Database  
• Universal Periodic Review reports and shadow reports: https://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx  
• Shadow reports and UN recommendations for instruments  
• OHCHR complete list of Universal Periodic Review reports and shadow reports: https://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx  
• CEDAW reports: http://www.un.org/womenwatch/daw/cedaw/index.html  
• Convention on the Rights of the Child reports: https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx |
## Identifying State Commitments

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<thead>
<tr>
<th>Criteria</th>
<th>Indicator</th>
<th>Information Sources</th>
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</thead>
</table>
| Membership of key arms control agreements | • Membership of recipient state to the ATT  
• Membership of recipient state to CCW, CCM, MBT  
• Reports submitted to the UN PoA  
• Membership of recipient state to the Firearms Protocol  
• Membership of recipient state to the Wassenaar Arrangement  
• Membership of recipient state to relevant regional arms control instruments | ATT Secretariat  
UN Programme of Action ISS  
UN Treaty Collection  
Wassenaar Arrangement  
Landmine & Cluster Munition Monitor  
| Existence of national laws to tackle GBV | • Existence of National Action Plan to implement UN Security Council Resolution 1325  
• National laws criminalising human trafficking (in line with the UN Trafficking Protocol)  
• Existence of National Action Plan to address modern slavery  
• Evidence of provision of services and support to victims of GBV  
• Existence of laws to protect against rape and sexual violence  
• Existence of laws to protect against domestic violence and child abuse  
• Existence of laws to protect against discrimination or violence based on sexual orientation and identification | Inter-Agency Network on Women and Gender Equality-National implementation of Security Council resolution 1325  
Walk Free Foundation: Government Response Database  
World Health Organisation: Global Status Report on Violence Prevention  
UN Women Global Knowledge Platform to End Violence against Women  